Volume 2

STATUTES OF CALIFORNIA

AND DIGESTS OF MEASURES

1988

Constitution of 1879 as Amended

Measures Submitted to Vote of Electors,
Primary Election, June 7, 1988
and General Election, November 8, 1988

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

1987–88 Regular Session

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CHAPTER 398

An act to amend Sections 11162, 11164, 11167.5, 11190, and 11206 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 11162 of the Health and Safety Code is amended to read:

11162. The prescription blanks shall be printed on distinctive paper, the serial number of the group being shown on each form, and each form being serially numbered. The prescription blanks shall bear the preprinted name, address, and category of professional licensure of the practitioner to whom they are issued, and the federal registry number for controlled substances.

SEC. 2. Section 11164 of the Health and Safety Code is amended to read:

11164. Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense such a prescription unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II shall be wholly written in ink or indelible pencil in the handwriting of the prescriber upon the official prescription form issued by the Department of Justice. Each prescription shall be prepared in triplicate, signed, and dated by the prescriber, and shall contain the name and address of the person for whom the controlled substance is prescribed, the name, quantity, and strength of the controlled substance prescribed, directions for use, and the address, category of professional licensure, and the federal controlled substance registration number of the prescriber. The original and duplicate of the prescription shall be delivered to the pharmacist filling the prescription. The duplicate shall be retained by the pharmacist and the original, properly endorsed by the pharmacist with the name and address of the pharmacy, the pharmacy's state license number, the date the prescription was filled and the signature of the pharmacist, shall be transmitted to the Department of Justice at the end of the month in which the prescription was filled. Upon receipt of an incompletely prepared official prescription form of the Department of Justice, the pharmacist may enter on the face of the prescription the address of the patient.

(b) Each prescription for a controlled substance classified in Schedule III, IV, or V, except as authorized by subdivision (c), shall be subject to the following requirements:

(1) The prescription shall be signed and dated by the prescriber and shall contain the name of the person for whom the controlled

substance is prescribed, the name and quantity of the controlled substance prescribed, and directions for use. With respect to prescriptions for controlled substances classified in Schedule III, the signature, date, and information required by this paragraph shall be wholly written in ink or indelible pencil in the handwriting of the prescriber.

(2) In addition, the prescription shall contain the name, address, telephone number, category of professional licensure, and federal controlled substance registration number of the prescriber. The information required by this paragraph shall be either preprinted upon the prescription blank, typewritten, rubber stamped, or printed by hand. Notwithstanding any provision in this section, the prescriber's address, telephone number, category of professional licensure, or federal controlled substances registration number need not appear on the prescription if that information is readily retrievable in the pharmacy.

(3) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify such address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain such information in a readily retrievable form in the pharmacy.

(c) Any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral prescription, which shall be reduced to writing by the pharmacist filling the prescription or by such other person as is expressly authorized by provisions of the Business and Professions Code. The date of issue of the prescription and all the information required for a written prescription by subdivision (b) shall be included in the written record of the prescription. The pharmacist need not reduce to writing the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient if that information is readily retrievable in the pharmacy. Pursuant to authorization of the prescriber, any employee of the prescriber on behalf of the prescriber may orally transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the employee of the prescriber transmitting the prescription.

(d) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(e) Notwithstanding any provision of subdivisions (b) and (c), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(f) In addition to the prescriber's record required by Section 11190, any practitioner dispensing a controlled substance classified in Schedule II in accordance with subdivision (b) of Section 11158 shall

prepare a written record thereof on the official forms issued by the Department of Justice, pursuant to Section 11161, and shall transmit the original to the Department of Justice in accordance with such rules as that department may adopt for completion and transmittal of the forms.

SEC. 3. Section 11167.5 of the Health and Safety Code is amended to read:

11167.5. (a) When failure to issue a prescription for a controlled substance classified in Schedule II to a patient in a licensed skilled nursing facility, an intermediate care facility, or a licensed home health agency providing hospice care would, in the opinion of the prescriber, present an immediate hazard to the patient's health and welfare or result in intense suffering to the patient, the prescription may be dispensed upon an oral prescription. Prior to filling the prescription, the pharmacist shall reduce it to writing in ink or indelible pencil in the handwriting of the pharmacist upon an official prescription form issued by the Department of Justice for that purpose. The prescriptions shall be prepared in triplicate and shall contain the date the prescription was orally transmitted by the prescriber, the name of the person for whom the prescription was authorized, the name and address of the licensed facility or home health agency providing hospice care in which that person is a patient, the name and quantity of the controlled substance prescribed, the directions for use, and the name, address, category of professional licensure, and federal controlled substance registration number of the prescriber. The duplicate shall be retained by the pharmacist, and the triplicate shall be forwarded to the prescriber by the end of the month in which the prescription was issued. The original shall be properly endorsed by the pharmacist with the pharmacy's state license number, the signature of the pharmacist, the name and address of the pharmacy, and the signature of the person who received the controlled substances for the licensed facility or home health agency providing hospice care and shall be forwarded by the pharmacist to the Department of Justice at the end of the month in which the prescription was filled. Upon request, a skilled nursing facility, intermediate care facility, or licensed home health agency providing hospice care shall make available to the dispensing pharmacist copies of signed telephone orders, chart orders, or related documentation substantiating an oral prescription transaction under this section.

(b) For the purposes of this section, "hospice care" means interdisciplinary health care which is designed to alleviate the physical, emotional, social, and spiritual discomforts of an individual who is experiencing the last phases of a terminal disease and to provide supportive care for the primary care person and the family of the patient under hospice care.

SEC. 4. Section 11190 of the Health and Safety Code is amended to read:

11190. Every practitioner, other than a pharmacist, who issues a

prescription, or dispenses or administers a controlled substance classified in Schedule II shall make a record that, as to the transaction, shows all of the following:

(a) The name and address of the patient.

(b) The date.

(c) The character, including the name and strength, and quantity of controlled substances involved.

The prescriber's record shall show the pathology and purpose for which the prescription is issued, or the controlled substance administered, prescribed, or dispensed.

SEC. 5. Section 11206 of the Health and Safety Code is amended to read:

11206. Filed prescriptions shall constitute a transaction record that, together with information that is readily retrievable in the pharmacy pursuant to Section 11164 shall show or include the following:

(a) The name(s) and address of the patient(s).

(b) The date.

(c) The character, including the name and strength, quantity, and directions for use of the controlled substance involved.

(d) The name, address, telephone number, category of professional licensure, and the federal controlled substance registration number of the prescriber.

CHAPTER 399

An act to amend, repeal, and add Section 54953 of the Government Code, relating to local agencies.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) Notwithstanding any other provision of law, the legislative body of a local agency may use video teleconferencing for the benefit of the public or the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The use of video teleconferencing, as authorized by this chapter, shall be limited to the receipt of public comment or testimony by the legislative body and to deliberations of the legislative body. If the legislative body of a local agency elects to use video teleconferencing, it shall post

agendas at all video teleconference locations and adopt reasonable regulations to adequately protect the statutory or constitutional rights of the parties or the public appearing before the legislative body of a local agency. The term "video teleconference" shall mean a system which provides for both audio and visual participation between all members of the legislative body and the public attending a meeting or hearing at any video teleconference location.

This section shall remain in effect until January 1, 1994, and on that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 2. Section 54953 is added to the Government Code, to read:

54953. All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

This section shall become operative January 1, 1994.

CHAPTER 400

An act to add Section 27279 to the Government Code, relating to real property.

[Approved by Governor August 11, 1988 Filed with Secretary of State August 11, 1988]

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

SECTION 1. Section 27279 is added to the Government Code, immediately preceding Section 27280 thereof, to read:

27279. "Instrument," as used in this article, means a written paper signed by a person or persons transferring the title to, or giving a lien on real property, or giving a right to a debt or duty.

SEC. 2. Section 27279 of the Government Code, as added by Section 1 of this act, is declaratory of existing law and is not intended to expand or diminish the scope of documents presently found by recorders to be eligible for recordation.

CHAPTER 401

An act to amend Section 131241 of the Public Utilities Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 131241 of the Public Utilities Code is amended to read:

131241. (a) The county transportation authority shall consist of the members who are elected officials as specified in the county transportation expenditure plan and shall be appointed by each constituent local government within 45 days after the authority is created.

(b) At the first meeting of the county transportation authority, one-half of the members, and the odd-numbered member if the membership of the county transportation authority is odd-numbered, shall be selected by lot to serve terms consisting of the remaining months of the current calendar year, if any, plus two years, and the remaining members shall be selected by lot to serve a term consisting of the remaining months of the current calendar year, if any, plus three-years. Thereafter, appointments for all members shall be for two-year terms, beginning on January 1.

(c) If any member or alternate member ceases to be an elected official, that member shall cease to be a member of the county transportation authority, and another member shall be appointed for the remainder of the term by the constituent local government that that member represents.

(d) An alternate may be designated for each regular member. A regular member who, pursuant to the county transportation expenditure plan, serves by virtue of holding a specified public office, may designate a person to serve as his or her alternate. In the case of any other regular member, the appointing constituent local government may designate an alternate to the regular appointed member. The alternate's term of office shall be the same as that of the regular member. When the regular member is not present at the meeting of the authority, the alternate may act as the regular member and shall have all the rights, privileges, and responsibilities of the regular member.

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

It is essential for the welfare of the citizens of Alameda County that there be a majority of the members of the county transportation

authority available to vote, and that important matters coming before the authority in the near future not be delayed due to the absence of regular members. It is therefore necessary that this act take effect immediately.

CHAPTER 402

An act to amend Section 30171.2 of the Public Resources Code, relating to local coastal programs, and making an appropriation therefor.

[Approved by Governor August 11, 1988 Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 30171.2 of the Public Resources Code is amended to read:

30171.2. (a) Except as provided in subdivision (b), on and after January 1, 1985, no agricultural conversion fees may be levied or collected under the agricultural subsidy program provided in the local coastal program of the City of Carlsbad which was adopted and certified pursuant to Section 30171. All other provisions of that program shall continue to be operative, including the right to develop designated areas as provided in the program.

(b) This section shall not affect any right or obligation under any agreement or contract entered into prior to January 1, 1985, pursuant to that agricultural subsidy program, including the payment of any fees and the right of development in accordance with the provisions of any such agreement or contract. As to these properties, the agricultural subsidy fees in existence as of December 31, 1984, shall be paid and allocated within the City of Carlsbad, or on projects outside the city which benefit agricultural programs within the city, in accordance with the provisions of the agricultural subsidy program as it existed on September 30, 1984.

(c) Any agricultural conversion fees collected pursuant to the agricultural subsidy program and not deposited in the agricultural improvement fund in accordance with the local coastal program or which have not been expended in the form of agricultural subsidies assigned to landowners by the local coastal program land use policy plan on January 1, 1985, shall be used by the State Board of Control to reimburse the party which paid the fees if no agreements or contracts have been entered into or to the original parties to the agreements or contracts referred to in subdivision (b) in proportion to the amount of fees paid by the parties. However, if the property subject to the fee was under option at the time that the original agreement or contract was entered into and the optionee was a party to the agricultural subsidy agreement, payments allocable to that

property shall be paid to the optionee in the event the optionee has exercised the option. Reimbursements under this section shall be paid within 90 days after January 1, 1985, or payment of the fee, whichever occurs later, and only after waiver by the party being reimbursed of any potential legal rights resulting from enactment of this section.

(d) Any person entitled to reimbursement of fees under subdivision (c) shall file a claim with the State Board of Control which shall determine the validity of the claim and pay that person a pro rata share based on the relative amounts of fees paid under the local coastal program or any agreement or contract entered pursuant thereto.

There is hereby appropriated to the State Board of Control the fees referred to in subdivision (c), for the purpose of making refunds under this section.

(e) Notwithstanding any geographical limitation contained in this division, funds deposited pursuant to subdivision (b) may be expended for physical or institutional development improvements needed to facilitate long-term agricultural production within the City of Carlsbad. These funds may be used to construct improvements outside the coastal zone boundaries in San Diego County if the improvements are not inconsistent with the Carlsbad local coastal program and the State Coastal Conservancy determines that the improvements will benefit agricultural production within the coastal zone of the City of Carlsbad.

CHAPTER 403

An act to amend Sections 827.1, 853.7, 853.8, and 1318 of the Penal Code, and to repeal Section 17 of Chapter 873 of the Statutes of 1979, relating to conditions for release.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 827.1 of the Penal Code is amended to read:

827.1. A person who is specified or designated in a warrant of arrest for a misdemeanor offense may be released upon the issuance of a citation, in lieu of physical arrest, unless one of the following conditions exists:

(a) The misdemeanor cited in the warrant involves violence.

(b) The misdemeanor cited in the warrant involves a firearm.

(c) The misdemeanor cited in the warrant involves resisting arrest.

(d) The misdemeanor cited in the warrant involves giving false information to a peace officer.

(e) The person arrested is a danger to himself or herself or others due to intoxication or being under the influence of drugs or narcotics.

(f) The person requires medical examination or medical care or was otherwise unable to care for his or her own safety.

(g) The person has other ineligible charges pending against him or her.

(h) There is reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be immediately endangered by the release of the person.

(i) The person refuses to sign the notice to appear.

(j) The person cannot provide satisfactory evidence of personal identification.

(k) The warrant of arrest indicates that the person is not eligible to be released on a citation.

The issuance of a citation under this section shall be undertaken in the manner set forth in Sections 853.6 to 853.8, inclusive.

SEC. 2. Section 853.7 of the Penal Code is amended to read:

853.7. Any person who willfully violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court is guilty of a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

SEC. 3. Section 853.8 of the Penal Code is amended to read:

853.8. When a person signs a written promise to appear at the time and place specified in the written promise to appear and has not posted bail as provided in Section 853.6, the magistrate shall issue and have delivered for execution a warrant for his or her arrest within 20 days after his or her failure to appear as promised or within 20 days after his or her failure to appear after a lawfully granted continuance of his or her promise to appear.

SEC. 4. Section 1318 of the Penal Code is amended to read:

1318. (a) The defendant shall not be released from custody under an own recognizance until the defendant files with the clerk of the court or other person authorized to accept bail a signed release agreement which includes:

(1) The defendant's promise to appear at all times and places, as ordered by the court or magistrate and as ordered by any court in which, or any magistrate before whom the charge is subsequently pending.

(2) The defendant's promise to obey all reasonable conditions imposed by the court or magistrate.

(3) The defendant's promise not to depart this state without leave of the court.

(4) Agreement by the defendant to waive extradition if the defendant fails to appear as required and is apprehended outside of the State of California.

(5) The acknowledgment of the defendant that he or she has been informed of the consequences and penalties applicable to violation of the conditions of release.

SEC. 5. Section 17 of Chapter 873 of the Statutes of 1979, as amended by Section 5 of Chapter 1432 of the Statutes of 1985, is repealed.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 404

An act to amend Section 289 of the Penal Code, relating to crimes.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 289 of the Penal Code is amended to read:

289. (a) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device when the act is accomplished against the victim's will by means of force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person or where the act is accomplished against the victim's will by threatening to retaliate in the future against the victim or any other person, and there is a reasonable possibility that the perpetrator will execute the threat, shall be punished by imprisonment in the state prison for three, six, or eight years.

(b) Except as provided in subdivision (c), every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years. Notwithstanding the appointment of a conservator with respect to the victim pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an

element of crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(c) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time incapable, because of a mental disorder or developmental or physical disability, of giving legal consent, and this is known or reasonably should be known to the person committing the act or causing the act to be committed and both the defendant and the victim are at the time confined in a state hospital for the care and treatment of the mentally disordered or in any other public or private facility for the care and treatment of the mentally disordered approved by a county mental health director, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disorder or developmental or physical disability rendered the alleged victim incapable of giving legal consent.

(d) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, and the victim is at the time unconscious of the nature of the act and this is known to the person committing the act or causing the act to be committed, shall be punished by imprisonment in the state prison for three, six, or eight years.

(e) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the victim is prevented from resisting by any intoxicating or anesthetic substance, or any controlled substance, administered by or with the privity of the accused, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(f) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this

belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Every person who causes the penetration, however slight, of the genital or anal openings of any person or causes another person to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse by any foreign object, substance, instrument, or device, where the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of penetration of genital or anal openings with a foreign object, substance, instrument, or device of a person who is under 18 years of age or causes another person under 18 years of age to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of penetration of the genital or anal openings with a foreign object, substance, instrument, or device of another person who is under 16 years of age or causes another person under 16 years of age to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse, shall be guilty of a felony.

(j) Any person who participates in an act of penetration of the genital or anal openings with a foreign object, instrument, or device of another person who is under 14 years of age and who is more than 10 years younger than he or she or causes another person who is under 14 years of age and who is more than 10 years younger than the defendant to so penetrate the defendant's or another person's genital or anal openings for the purpose of sexual arousal, gratification, or abuse, shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section, "foreign object, substance, instrument, or device" shall include any part of the body, except a sexual organ.

(*l*) As used in subdivision (a), "threatening to retaliate" means a threat to kidnap or falsely imprison, or inflict extreme pain, serious bodily injury or death.

(m) As used in this section, "victim" includes any person who the defendant causes to penetrate the genital or anal openings of the

defendant or another person or whose genital or anal openings are caused to be penetrated by the defendant or another person and who otherwise qualifies as a victim under the requirements of this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 405

An act to amend Section 2154 of the Business and Professions Code, relating to osteopathic physicians and surgeons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 11, 1988. Filed with Secretary of State August 11, 1988.]

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

SECTION 1. Section 2154 of the Business and Professions Code is amended to read:

2154. Notwithstanding any other provisions of law, the Board of Osteopathic Examiners shall issue a osteopathic physician's and surgeon's certificate on reciprocity to an applicant providing he or she meets the following requirements:

(a) The applicant holds an unrestricted license to engage in the practice of osteopathic medicine in another state whose written licensing examination is recognized and approved by the board. In lieu of a board approved and recognized state written license examination, the board may require the applicant to successfully complete a special examination in general medicine and osteopathic principles as prepared by the National Board of Osteopathic Medical Examiners, the Board of Osteopathic Examiners, or the Federation of State Medical Boards.

(b) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the board determines constitutes evidence of a pattern of negligence or incompetence.

(c) The applicant takes and passes an oral and comprehensive clinical examination.

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

In order that the provisions of this act shall apply to examinations scheduled for June and October 1988, it is necessary that this act go into immediate effect.

CHAPTER 406

An act to add Section 30113 to, and to add Chapter 4 (commencing with Section 30910) to Division 17 of, the Streets and Highways Code, relating to bridge tolls, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 12, 1988 Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 30113 is added to the Streets and Highways Code, to read:

30113. (a) The commission may utilize net revenues from toll bridges in order to finance research on high technology motion control devices to be used on the bridges.

(b) If the Metropolitan Transportation Commission allocates toll bridge net revenues pursuant to Section 30886, it may utilize net revenues from the bridges under its jurisdiction to finance the research referred to in subdivision (a).

SEC. 2. Chapter 4 (commencing with Section 30910) is added to Division 17 of the Streets and Highways Code, to read:

CHAPTER 4. SAN FRANCISCO BAY AREA BRIDGES

30910. (a) For purposes of this chapter, the state-owned toll bridges in the region under the jurisdiction of the Metropolitan Transportation Commission are classified as being in the northern bridge unit or the southern bridge unit.

(b) The northern bridge unit is comprised of the following bridges, which shall be operated and financed as a single unit:

(1) Antioch Bridge.

(2) Benicia-Martinez Bridge.

(3) Carquinez Bridges.

(4) Richmond-San Rafael Bridge.

(c) The southern bridge unit is comprised of the following bridges, which shall be operated and financed as a single unit:

(1) Dumbarton Bridge.

(2) San Mateo-Hayward Bridge.

(3) San Francisco-Oakland Bay Bridge.

30911. (a) Toll revenues from the bridges comprising the northern bridge unit shall be deposited in as the San Francisco Bay Bridges-Northern Unit Account, which is hereby created in the State

Transportation Fund.

(b) Toll revenues from the bridges comprising the southern bridge unit shall be deposited in the San Francisco Bay Bridges-Southern Unit Account, which is hereby created in the State Transportation Fund.

(c) Revenues in each of the accounts created by this section shall be kept segregated and set apart from other funds.

30912. (a) Revenue derived from tolls on all bridges in a bridge unit may be expended on any bridge and its approaches in that unit for any of the following purposes:

(1) Safety and operational costs, including toll collection and insurance.

(2) Payment of the principal of, and interest on, bonds to be issued by the California Transportation Commission for the bridge construction and improvement projects specified in Sections 30913 and 30914, including payments into a sinking fund maintained for that purpose, and repayment of any advances made for that purpose. No additional bonds secured by the revenues of any bridge specified in Section 30910 shall be issued without the further approval of the Legislature, except to finance, in whole or in part, the projects authorized by this chapter or to refund bonds issued to finance those projects, if, in the opinion of the California Transportation Commission, a saving in interest costs can be achieved by such refunding.

(b) However, not less than 90 percent of the revenue derived from the toll increase for Class I vehicles on the San Francisco-Oakland Bay Bridge shall be used for payment of the principal of, and interest on, bonds issued for the construction of rail extensions and improvement projects specified in Section 30914, including payments into a sinking fund maintained for that purpose.

(c) Maintenance of the bridges specified in Section 30910 shall be funded in accordance with procedures for funding maintenance of the southern bridge unit during the 1986–87 fiscal year.

30913. (a) In addition to any other authorized expenditure of toll bridge revenues, the following major projects may be funded from toll revenues of all bridges in the northern bridge unit:

(1) Benicia-Martinez Bridge: Widening of the existing bridge.

(2) Benicia-Martinez Bridge: Construction of an additional span parallel to the existing bridge.

(3) Carquinez Bridge: Replacement of the existing western span.

(4) Richmond-San Rafael Bridge: Major rehabilitation of the bridge, and development of a new easterly approach between the toll plaza and Route 80, near Pinole.

(b) Up to 3 percent of the revenues derived from the toll increase on all bridges in the northern bridge unit may be allocated by the Metropolitan Transportation Commission for transportation projects, other than those specified in Sections 30912, 30913, and 30914, which are designed to reduce vehicular traffic congestion on any bridge in that group. The plans for the projects may also be

funded by these moneys.

(c) The department shall not include, in the plans for the new Benicia-Martinez Bridge, toll plazas, highways, or other facilities leading to or from the Benicia-Martinez Bridge, any construction which would result in the net loss of any wetland acreage.

(d) With respect to the Benicia-Martinez and Carquinez bridges, the department shall consider the potential for rail transit as part of the plans for the new structures specified in paragraphs (2) and (3) of subdivision (a).

30914. (a) In addition to any other authorized expenditures of toll bridge revenues, the following major projects may be funded from toll revenues of all bridges in the southern bridge unit:

(1) Dumbarton Bridge: Improvement of the western approaches from Route 101 if affected local governments are involved in the planning.

(2) San Mateo-Hayward Bridge and approaches: Widening of the bridge to six lanes, and improvements to the Route 92/Route 880 interchange.

(3) Construction of West Grand connector or an alternate project designed to provide comparable benefit by reducing vehicular traffic congestion on the eastern approaches to the San Francisco-Oakland Bay Bridge. Affected local governments shall be involved in the planning.

(4) Not less than 90 percent of the revenues derived from the toll increase for Class I vehicles on the San Francisco-Oakland Bay Bridge shall be used exclusively for rail transit capital improvements designed to reduce vehicular traffic congestion on the San Francisco-Oakland Bay Bridge. The remaining revenues shall be used to fund the projects specified in paragraphs (1), (2), and (3) of this subdivision.

(b) Up to 3 percent of the additional revenue derived pursuant to Section 30915 from all bridges in the southern bridge unit may be allocated by the Metropolitan Transportation Commission for transportation projects other than those specified in Sections 30912, 30913, and 30914, which are designed to reduce vehicular traffic congestion on any bridge in that group. The plans for the projects may also be funded by these moneys.

30915. With respect to all construction and improvement projects specified in Sections 30913 and 30914, the department shall seek funding from all other potential sources, including, but not limited to, the State Highway Account and federal matching funds.

30916. (a) The Metropolitan Transportation Commission may adopt a proposed toll schedule, subject to Section 30888, for each of the bridges within its jurisdiction. The proposed schedules shall provide for a uniform toll for all bridges of one dollar ($1) for Class I vehicles. For other vehicles, the proposed schedule for any bridge may provide for a toll not exceeding an amount equal to one and one-half times the toll rate in effect for the San Francisco-Oakland Bay Bridge on September 1, 1969, and may provide for reduced rates

for commercial traffic during nonpeak traffic hours. If the proposed increase in the toll for any type of non-Class I vehicle exceeds, by more than 50 percent, the toll in effect on July 1, 1988, for that vehicle on that bridge, that toll shall be increased by not more than one-fourth of the total increase proposed, during each of the four succeeding years. For purposes of this section, a Class I vehicle means any motor vehicle with not more than two axles and four wheels and not drawing a trailer.

(b) Nothing in this section shall be construed to prohibit the adoption of either a discounted commute rate for Class I vehicles or of special provisions for high-occupancy vehicles under terms and conditions prescribed by the California Transportation Commission.

30917. (a) The tolls on any of the bridges specified in Section 30910 shall not be increased prior to the availability of the results of a special election to be held in the City and County of San Francisco and the Counties of Alameda, Contra Costa, Marin, San Mateo, Santa Clara, and Solano to determine whether the residents of those counties approve a uniform toll of one dollar ($1) for Class I vehicles. The revenue derived from the toll increase shall be used to finance capital outlay for bridge construction and major bridge improvement projects as is fiscally practicable. Not less than 90 percent of the increase in revenue derived only from the Class I vehicles on the San Francisco-Oakland Bay Bridge shall be used to finance rail extensions and improvement projects designed to reduce vehicular traffic congestion on that bridge and its approaches, as specified in Section 30914.

(b) Notwithstanding any provision of the Elections Code, the board of supervisors of each of the counties and the city and county specified in subdivision (a) shall call a special election to be conducted in each of those counties and the city and county, which shall be consolidated with the November 8, 1988, general election. The following question shall be presented to the voters of each of the counties as Regional Measure 1, to be stated in the ballot separately from state and local measures:

"Shall the California Transportation Commission and the Metropolitan Transportation Commission be authorized to undertake a revenue bond program to finance major bridge improvements, the construction of new bridges, and mass transit extensions designed to reduce bridge traffic in the bay area, to be financed by bridge tolls which shall not exceed one dollar ($1) for passenger vehicles?"

(c) The results of the special election shall be reported by the county clerks to the California Transportation Commission and the Metropolitan Transportation Commission. If a majority of all of the voters voting on the question at the special election vote affirmatively, the California Transportation Commission shall adopt the toll schedule proposed by the Metropolitan Transportation Commission which shall become effective January 1, 1989.

(d) If a majority of all of the voters voting on the question at the

special election vote negatively, this chapter shall be repealed on the day following the day on which the election results are certified.

(e) Except as provided in Section 30918, the toll rates contained in a toll schedule adopted by the California Transportation Commission pursuant to this section shall not be changed without further authorization by the Legislature.

30918. (a) It is the intention of the Legislature to maintain tolls on all of the bridges specified in Section 30910 at rates sufficient to meet any obligation to the holders of bonds secured by the bridge toll revenues. The California Transportation Commission shall retain authority to set the toll schedule only as may be necessary to meet those bond obligations.

(b) Nothing in this chapter shall be construed to prevent the California Transportation Commission from complying with the provisions of any bond resolution in effect on July 1, 1988.

30919. (a) Consistent with its adopted regional transportation plan, after the requirements for debt service on the outstanding revenue bonds have been met, the Metropolitan Transportation Commission shall allocate the revenues identified in subdivision (b) of Sections 30913 and 30914 to eligible public entities and to the department.

(b) The revenues expended pursuant to paragraph (4) of subdivision (a) of Section 30914 shall be expended on rail extension and improvement projects designed to reduce vehicular traffic congestion on the San Francisco-Oakland Bay Bridge. Seventy percent of the revenues shall be expended on rail extensions and improvement projects in the Counties of Alameda and Contra Costa, including, but not limited to, extending the regional rail system in the Concord-Antioch, Fremont-San Jose, and the Bayfair-Livermore rail transit corridors. The remaining 30 percent shall be expended on rail extensions and improvement projects in the City and County of San Francisco and the Counties of San Mateo and Santa Clara.

(c) The department shall update the "point of origin" study related to the Eastbay/Westbay origin of commute trips on the San Francisco-Oakland Bay Bridge and report its findings to the Legislature by January 1, 1990.

30920. (a) (1) The California Transportation Commission may, notwithstanding subdivision (c) of Section 30102.5, issue revenue bonds under the California Toll Bridge Authority Act to finance any or all of the projects specified in Sections 30913 and 30914.

(2) The California Transportation Commission shall not authorize the issuance of bonds pursuant to paragraph (1) unless it has authorized the issuance of bonds to finance rail extension upon the request of the Metropolitan Transportation Commission pursuant to subdivision (b).

(b) Notwithstanding subdivision (c) of Section 30102.5, with respect to any of the bridge toll revenues which are otherwise available for allocation by the Metropolitan Transportation Commission pursuant to Section 30892, the Metropolitan

Transportation Commission may request the California Transportation Commission to issue bonds, secured solely by those revenues to finance the rail extension and improvement projects specified in paragraph (4) of subdivision (a) of Section 30914. The expenses of issuance of those bonds, including, but not limited to, fees of financial and other consultants, bond counsel, printing, and personnel costs, the cost of insurance, and all other costs required only to comply with the requirements of the resolution authorizing the issuance of those bonds, may be paid either from bond proceeds or from any revenues available to the Metropolitan Transportation Commission for that purpose.

30921. (a) The department shall prepare, or cause to be prepared, a detailed traffic engineering study which evaluates the existing bridge and approach limits of the seven bridges specified in Section 30910. The study shall include an evaluation of the ability of these approaches to accommodate the carrying capacity of these bridges, including any planned lane additions identified by the department pursuant to Senate Resolution 46 of the 1985–86 Regular Session.

(b) As part of its plans for constructing a new bridge or bridge widening in the San Francisco Bay area, the department shall include an evaluation of whether there will be a balanced design between the bridge and its approaches as a result of the construction.

(c) The department shall transmit the results of its study to the Legislature by January 1, 1990, and, as part of that transmittal, shall include its recommendations for mitigating any problems identified as part of the study.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

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

In order for necessary bridge improvements in the San Francisco Bay Area to be commenced as soon as possible, this act must take effect immediately.

CHAPTER 407

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

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 4801 of the Civil Code is amended to read:

4801. (a) In any judgment decreeing the dissolution of a marriage or a legal separation of the parties, the court may order a party to pay for the support of the other party any amount, and for any period of time, as the court may deem just and reasonable, based on the standard of living established during the marriage. In making the award, the court shall consider all of the following circumstances of the respective parties:

(1) The extent to which the earning capacity of each spouse is sufficient to maintain the standard of living established during the marriage, taking into account all of the following:

(A) The marketable skills of the supported spouse; the job market for those skills; the time and expenses required for the supported spouse to acquire the appropriate education or training to develop those skills; and the possible need for retraining or education to acquire other, more marketable skills or employment.

(B) The extent to which the supported spouse's present or future earning capacity is impaired by periods of unemployment that were incurred during the marriage to permit the supported spouse to devote time to domestic duties.

(2) The extent to which the supported spouse contributed to the attainment of an education, training, a career position, or a license by the other spouse.

(3) The ability to pay of the supporting spouse, taking into account the supporting spouse's earning capacity, earned and unearned income, assets, and standard of living.

(4) The needs of each party based on the standard of living established during the marriage.

(5) The obligations and assets, including the separate property, of each.

(6) The duration of the marriage.

(7) The ability of the supported spouse to engage in gainful employment without interfering with the interests of dependent children in the custody of the spouse.

(8) The age and health of the parties.

(9) The immediate and specific tax consequences to each party.

(10) Any other factors which it deems just and equitable.

The court shall make specific factual findings with respect to the standard of living during the marriage, and, at the request of either

party, the court shall make appropriate factual determinations with respect to any other circumstances. The court may order the party required to make the payment of support to give reasonable security therefor. Any order for support of the other party may be modified or revoked as the court may deem necessary, except as to any amount that may have accrued prior to the date of the filing of the notice of motion or order to show cause to modify or revoke. Any order for spousal support may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date. At the request of either party, the order of modification or revocation shall include a statement of decision and may be made retroactive to the date of filing of the notice of motion or order to show cause therefor, or to any subsequent date.

(b) Except as otherwise agreed by the parties in writing, the obligation of any party under any order or judgment for the support and maintenance of the other party shall terminate upon the death of either party or the remarriage of the other party.

(c) When a court orders a person to make specified payments for support of the other party for a contingent period of time, the liability of the person terminates upon the happening of the contingency. If the party to whom payments are to be made fails to notify the person ordered to make the payments, or the attorney of record of the person so ordered, of the happening of the contingency and continues to accept support payments, the supported party shall refund any and all moneys received which accrued after the happening of the contingency, except that the overpayments shall first be applied to any and all support payments which are then in default. The court may, in the original order for support, order the party to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(d) An order for payment of an allowance for the support of one of the parties shall terminate at the end of the period specified in the order and shall not be extended unless the court in its original order retains jurisdiction. Except upon written agreement of the parties to the contrary or a court order terminating spousal support, the court retains jurisdiction indefinitely where the marriage has been of long duration.

For purposes of retaining jurisdiction, there is a presumption affecting the burden of providing evidence, that a marriage of 10 years or more, from the date of marriage to the date of separation, is a marriage of long duration. However, the court may consider periods of separation during the marriage in determining whether the marriage is in fact of long duration. Nothing in this section precludes a court from determining that a marriage of less than 10 years is a marriage of long duration. Nothing in this section limits the court's discretion to terminate spousal support in subsequent proceedings upon a showing of changed circumstances.

The amendments to this subdivision enacted at the 1987 portion of

the 1987–88 Regular Session apply in those proceedings pending on January 1, 1988, in which the court has not entered a permanent spousal support order or in which the court order is subject to modification and to any case filed on or after January 1, 1988.

(e) In any proceeding under this section the court may order a party to submit to an examination by a vocational training consultant. The order may be made only on motion, for good cause shown, and upon notice to the party to be examined and to all parties, and shall specify the time, place, manner, conditions, scope of the examination, and the person or persons by whom it is to be made. The party refusing to comply with such an order shall be subject to the same consequences provided for failure to comply with an examination ordered pursuant to Section 2032 of the Code of Civil Procedure.

(f) For the purposes of this section, "vocational training consultant" means an individual with sufficient knowledge, skill, experience, training, or education relating to interviewing, the testing and analysis of work skills, the planning of courses of training and study, the formulation of career goals, and the work market to qualify as an expert in vocational training under Section 720 of the Evidence Code.

CHAPTER 408

An act to amend Section 22238 of the Education Code, and to amend Section 20215 of the Government Code, relating to public retirement systems.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 22238 of the Education Code is amended to read:

22238. Notwithstanding any other provision of law, the board may, pursuant to Section 22222 and in conformance with its fiduciary duty as set forth in Section 22225.5, enter into correspondent agreements with private lending institutions in this state to utilize the retirement fund to assist system members and retirants, through financing, to obtain homes in this state.

The terms and conditions of the correspondent agreements shall address all of the following:

(a) That home loans be made available to currently employed members and retirants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That the private lending institution shall originate and service these home loans.

(c) That the recipients of the loans occupy the homes as their permanent residences pursuant to rules and regulations adopted by the board or as these terms are defined in the correspondent agreements.

(d) That home loans shall be available only for the purchase of homes in this state.

(e) That the amount and length of the loans shall include terms and conditions that set a loan to value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to the provisions of Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on loans, the terms and conditions of which shall be set forth in the correspondent agreement.

(g) That the criteria and terms for loans shall provide the greatest benefit to members and retirants consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) That loans shall not be made at a rate lower than the market rate.

(i) Any other terms and conditions as the parties to the correspondent agreement may deem appropriate.

SEC. 2. Section 20215 of the Government Code is amended to read:

20215. Notwithstanding any other provision of law, the board may establish a program utilizing the retirement fund to assist system members and annuitants, through financing, to obtain homes in this state.

The board shall adopt regulations governing the program which shall, among other things, provide:

(a) That home loans be made available to currently employed members and annuitants for the purchase of single-family dwellings, two-family dwellings, three-family dwellings, four-family dwellings, single-family cooperative apartments, and single-family condominiums.

(b) That private lending institutions in this state shall originate and service its home loans pursuant to agreements entered into between those institutions and the board.

(c) That the recipients of the loans occupy the homes as their

permanent residences in accord with rules and regulations established by the board.

(d) That its home loans shall be available only for the purchase or refinancing of homes in this state and that under no condition shall a member or annuitant have more than one outstanding loan.

(e) That the amount and length of the loans shall be pursuant to a schedule periodically established by the board which shall provide a loan to value ratio of: (1) for the first loan, except for three-family dwellings and four-family dwellings, a maximum of 95 percent of the first loan; (2) for the first loan on three-family dwellings and four-family dwellings, a maximum of 90 percent of the first loan; and (3) for each additional loan, a maximum of 80 percent of each additional loan. The portion of any loan exceeding 80 percent of value shall be insured by an admitted mortgage guaranty insurer conforming to the provisions of Chapter 2A (commencing with Section 12640.01) of Part 6 of Division 2 of the Insurance Code in an amount so that the unguaranteed portion of the loan does not exceed 75 percent of the market value of the property together with improvements thereon.

(f) That there may be prepayment penalties assessed on its loans in accordance with rules and regulations established by the board.

(g) That the criteria and terms for its loans shall provide the greatest benefit to members and annuitants consistent with the financial integrity of the program and the sound investment of the retirement fund.

(h) Any other terms and conditions as the board shall deem appropriate.

CHAPTER 409

An act to amend Section 6253 of the Government Code, relating to information and records.

[Approved by Governor August 12, 1988 Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 6253 of the Government Code is amended to read:

6253. (a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall

be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Services
Employment Development Department
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Quality Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District.

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in subdivision (a).

CHAPTER 410

An act to add Chapter 1.5 (commencing with Section 71260) to Part 3 of Division 20 of the Water Code, relating to municipal water districts.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Chapter 1.5 (commencing with Section 71260) is added to Part 3 of Division 20 of the Water Code, to read:

CHAPTER 1.5. THREE VALLEYS MUNICIPAL WATER DISTRICT

71260. This chapter applies only to the Three Valleys Municipal Water District. Except as provided in this chapter, this division applies to the Three Valleys Municipal Water District.

71261. Notwithstanding any other provision of this division, the Board of Directors of the Three Valleys Municipal Water District shall consist of seven directors. Each director shall be a resident of the division from which he or she is elected.

71262. The board shall establish the boundaries of the seven divisions from which directors are elected in accordance with Chapter 6 (commencing with Section 71540) of Part 4. The additional directors shall be elected at a special district election which shall be called by the Board of Directors of Three Valleys Municipal Water District on the next available election date established by Chapter 1 (commencing with Section 2500) of Division 4 of the Elections Code that is 90 or more days after January 1, 1989. The two additional directors so elected and qualified shall take office on July 1, 1989, and shall hold office until their successors, who shall be elected at the district general election in 1992, take office. Thereafter, the two additional directors shall be elected to terms of four years.

SEC. 2. The Legislature hereby finds and declares that the enactment of Section 1 as a special law applicable only to the Three Valleys Municipal Water District is necessary because of unique conditions existing within that district. The Legislature further finds and declares that the provisions of this act are necessary in order to achieve the objectives of fair and adequate representation of residents within the Three Valleys Municipal Water District on the board of directors.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 411

An act to amend Section 205.5 of the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code, as amended by Section 4 of Chapter 608 of the Statutes of 1986, is amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes or has lost the use of two or more limbs as a result of injury or disease incurred in military service or that does not exceed one hundred thousand dollars ($100,000), if the veteran is totally disabled as a result of injury or disease incurred in military service. The forty thousand dollar ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), in the case of a veteran who was blind in both eyes or had lost the use of two or more limbs, or one hundred thousand dollars ($100,000), in the case of a veteran who was totally disabled; provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The forty thousand dollar ($40,000) exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(d) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(g) This section shall remain in effect until January 1, 1991, and on that date is repealed, unless a later enacted statute, which is chaptered on or before that date, deletes or extends that date.

SEC. 2. Section 205.5 of the Revenue and Taxation Code, as amended by Section 5 of Chapter 608 of the Statutes of 1986, is

amended to read:

205.5. (a) Property which is owned by, and which constitutes the principal place of residence of, a veteran is exempted from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000), if the veteran is blind in both eyes, has lost the use of two or more limbs, or is totally disabled as a result of injury or disease incurred in military service. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible veteran whose household income as defined in Section 20504 does not exceed the amounts specified in Section 20585.

(b) For purposes of this section, "veteran" is defined as specified in subdivision (o) of Section 3 of Article XIII of the Constitution without regard to any residency requirement or limitation contained therein on the value of property owned by the veteran or the veteran's spouse.

(c) Property which is owned by, and which constitutes the principal place of residence of, the unmarried surviving spouse of a veteran is exempt from taxation on that part of the full value of the residence that does not exceed forty thousand dollars ($40,000); provided, that the deceased veteran during his or her lifetime qualified in all respects for the exemption or would have qualified for the exemption under the laws effective on January 1, 1977, except that the veteran died prior to January 1, 1977; or provided that the veteran died from a disease which was service connected as determined by the Veterans Administration. The exemption shall be sixty thousand dollars ($60,000) in the case of an eligible unmarried surviving spouse whose household income as specified in Section 20504 does not exceed the amounts specified in Section 20585.

(d) As used in this section, "property which is owned by a veteran" or "property which is owned by the veteran's unmarried surviving spouse" includes all of the following:

(1) Property owned by the veteran with the veteran's spouse as a joint tenancy, tenancy in common or as community property.

(2) Property owned by the veteran or the veteran's spouse as separate property.

(3) Property owned with one or more other persons to the extent of the interest owned by the veteran, the veteran's spouse, or both the veteran and the veteran's spouse.

(4) Property owned by the veteran's unmarried surviving spouse with one or more other persons to the extent of the interest owned by the veteran's unmarried surviving spouse.

(5) So much of the property of a corporation as constitutes the principal place of residence of a veteran or a veteran's unmarried surviving spouse when the veteran, or the veteran's spouse, or the veteran's unmarried surviving spouse is a shareholder of the corporation and the rights of shareholding entitle one to the possession of property, legal title to which is owned by the corporation. The exemption provided by this paragraph shall be shown on the local roll and shall reduce the full value of the corporate

property. Notwithstanding any provision of law or articles of incorporation or bylaws of a corporation described in this paragraph, any reduction of property taxes paid by the corporation shall reflect an equal reduction in any charges by the corporation to the person who, by reason of qualifying for the exemption, made possible the reduction for the corporation.

(e) For purposes of this section, being blind in both eyes means having a visual acuity of 5/200 or less; losing the use of a limb means that the limb has been amputated or its use has been lost by reason of ankylosis, progressive muscular dystrophies, or paralysis; and being totally disabled means that the United States Veterans Administration or the military service from which such veteran was discharged has rated the disability at 100 percent or has rated the disability compensation at 100 percent by reason of being unable to secure or follow a substantially gainful occupation.

(f) An exemption granted to a claimant in accordance with the provisions of this section shall be in lieu of the veteran's exemption provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article XIII of the Constitution and any other real property tax exemption to which the claimant may be entitled. No other real property tax exemption may be granted to any other person with respect to the same residence for which an exemption has been granted under the provisions of this section; provided, that if two or more veterans qualified pursuant to this section co-own a property in which they reside, each is entitled to the exemption to the extent of his or her interest.

(g) This section shall become operative on January 1, 1991.

SEC. 3. This act shall become operative only if SCA No. 16 of the 1987–88 Regular Session is adopted by the voters.

SEC. 4. This act makes a classification or exemption of property for purposes of ad valorem property taxation within the meaning of Section 2229 of the Revenue and Taxation Code.

SEC. 5. The amendments to Section 205.5 of the Revenue and Taxation Code made by this act are declaratory of existing law.

CHAPTER 412

An act to amend Section 224b of the Civil Code, relating to adoption.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 224b of the Civil Code is amended to read:

224b. (a) The State Department of Social Services shall establish a statewide photo-listing service which shall serve all licensed

adoption agencies in the state as a means of recruiting adoptive families for children who have been legally freed, and whose case plan goal is adoption. The photo-listing service shall maintain a book that, except as provided in this section, contains a photograph and description of each child who has been legally freed, and whose case plan goal is adoption. Registration of children with the photo-listing service and notification by the licensed adoption agency of changes in a child's photo-listing status shall be reflected in the book within 30 working days of receipt of the registration or notification.

(b) The department shall promulgate regulations governing the operations of the photo-listing service and shall establish procedures for monitoring compliance with this section.

(c) The photo-listing service shall be provided to all licensed adoption agencies; adoption support groups; and state, regional, or national photo-listings or exchanges requesting copies of the photo-listing service.

(d) All legally freed children for whom adoption is the case plan shall be photo-listed, unless deferred as specified in subdivision (e) or (f). Licensed adoption agencies shall send a recent photograph and description of each legally freed child to the photo-listing service within 15 working days of the time a child is legally freed for adoption. When adoption has become the plan for a particular child, the agency may photo list that child prior to the child's becoming legally freed for adoption.

(e) A child shall be deferred from the photo-listing service when that child's foster parents or other identified individuals who have applied to adopt the child are meeting the adoption agency's requests for required documentation and are cooperating in the completion of a homestudy being conducted by the agency.

(f) A child who is 12 years old, or older, may be deferred from the photo-listing service if the child does not consent to being adopted.

(g) The department shall establish procedures for semiannual review of the photo-listing status of all legally freed children whose case plan goal is adoption, including those who are registered with the photo-listing service and those whose registration has been deferred.

(h) Within 15 working days following a one-year period in which a child is listed in the book, the agency shall submit a revised description and photograph of that child.

(i) Licensed adoption agencies shall notify the photo-listing service, by telephone, of any adoptive placements or of significant changes in the child's photo-listing status within two working days of that change.

(j) This section does not apply to independent or intercountry adoptions.

CHAPTER 413

An act to amend Section 1164 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988]

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

SECTION 1. Section 1164 of the Penal Code is amended to read:

1164. (a) When the verdict given is receivable by the court, the clerk, or if there is no clerk, the judge or justice, shall record it in full upon the minutes, and if requested by any party shall read it to the jury, and inquire of them whether it is their verdict. If any juror disagrees, the fact shall be entered upon the minutes and the jury again sent out; but if no disagreement is expressed, the verdict is complete, and the jury shall, subject to subdivision (b), be discharged from the case.

(b) No jury shall be discharged until the court has verified on the record that the jury has either reached a verdict or has formally declared its inability to reach a verdict on all issues before it, including, but not limited to, the truth of any alleged prior conviction whether in the same proceeding or in a bifurcated proceeding.

CHAPTER 414

An act to amend Section 33213 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 33213 of the Public Resources Code is amended to read:

33213. (a) The Santa Monica Mountains Conservancy Advisory Committee is hereby created. The advisory committee consists of 14 members, as follows:

(1) Four representatives of local governments from jurisdictions including the Santa Monica Mountains, one of whom shall be appointed by the Mayor of the City of Los Angeles, one of whom shall be appointed by the Board of Supervisors of the County of Los Angeles, one of whom shall be appointed by the City Council of the City of Thousand Oaks, and one of whom shall be appointed by the Board of Supervisors of the County of Ventura.

(2) Six public members, two of whom shall be appointed by the

Governor, two of whom shall be appointed by the Senate Committee on Rules, and two of whom shall be appointed by the Speaker of the Assembly.

(3) The Chairperson of the Santa Monica Mountains National Recreation Area Advisory Commission selected by the National Recreation Area Advisory Commission.

(4) One representative of the Rancho Simi Recreation and Park District, to be appointed by the district board of directors.

(5) One representative of the Conejo Recreation and Park District, to be appointed by the district board of directors.

(6) One representative of the Pleasant Valley Recreation and Park District, to be appointed by the district board of directors.

(b) The advisory committee shall select from among its members a chairperson and a vice chairperson.

(c) The members of the advisory committee shall serve without compensation, but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(d) The advisory committee has the following duties:

(1) Propose and review projects for conservancy action and report to the conservancy regarding the conformity of the projects with the plan.

(2) Review proposed amendments to the plan.

(3) Provide opportunities for public participation.

(e) A majority of the total authorized membership of the advisory committee constitutes a quorum for the transaction of any business of the advisory committee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 415

An act to amend Section 939 of the Penal Code, relating to grand juries.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 939 of the Penal Code is amended to read:

939. No person other than those specified in Article 3 (commencing with Section 934), in Sections 939.1 and 939.11, and the officer having custody of a prisoner witness while the prisoner is testifying, is permitted to be present during the session of the grand jury except the members and witnesses actually under examination.

No person other than those specified in Section 939.11 shall be permitted to be present during the expression of the opinions of the grand jurors, or the giving of their votes upon any matter before them.

CHAPTER 416

An act to amend Section 409 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 409 of the Streets and Highways Code is amended to read:

409. (a) Route 109 is from Route 84 to Route 101.

(b) The department is not responsible for the maintenance or operation of Route 109, except for that segment between Notre Dame Avenue in East Palo Alto and Route 84, nor shall the redesignation of Route 109 by the act which added this subdivision constitute a commitment for future construction of any highway projects on that route. Funds shall not be allocated to any Route 109 project, other than a project on the segment between Notre Dame Avenue in East Palo Alto and Route 84, until the commission has first allocated funds to all projects contained in the 1988 State Transportation Improvement Program which are not deleted from future programs, and construction begins on those projects.

(c) No study and analysis of any proposed segment of Route 109 shall be conducted without the involvement of the governing body of any city or county through which the segment would pass as an active participant in the study and analysis. However, nothing in this subdivision shall preclude the department from conducting such a study and analysis. Furthermore, no segment may be included in any plan for future Route 109 construction unless the segment is approved by each of those governing bodies.

CHAPTER 417

An act to add Section 9751.5 to the Welfare and Institutions Code, relating to aging.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 9751.5 is added to the Welfare and Institutions Code, to read:

9751.5. In addition to duties established in Section 9751, the department, in consultation with the commission, shall do both of the following:

(a) Support long-term care educational activities by employers, senior organizations, and other interested groups.

(b) Support to the extent possible additional emphasis on expansion of community educational activities which would provide for announcements on television and in other media that briefly describe the limited nature of the Medicare nursing home benefits, the function of long-term care insurance, and the availability of the Department of Insurance's Buyer's Guide and assistance under this chapter.

CHAPTER 418

An act to amend Sections 66000, 66001, and 66003 of, to amend and renumber Sections 50076.5, 53077, 53077.5, 65913.5, 65958, and 65959 of, and to add Section 66004 to, the Government Code, relating to local agencies.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 50076.5 of the Government Code is amended and renumbered to read:

66017. (a) In any judicial action or proceeding to validate, attack, review, set aside, void, or annul any ordinance or resolution providing for the imposition of a development fee by any city, county, or district in which there is at issue whether the development fee is a special tax within the meaning of Section 50076, the city, county, or district has the burden of producing evidence to establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed.

(b) No party may initiate any action or proceeding pursuant to

subdivision (a) unless both of the following requirements are met:

(1) The development fee was directly imposed on the party as a condition of project approval.

(2) At least 30 days prior to initiating the action or proceeding, the party requests the city, county, or district to provide a copy of the documents which establish that the development fee does not exceed the cost of the service, facility, or regulatory activity for which it is imposed. In accordance with Section 6257, the city, county, or district may charge a fee for copying the documents requested pursuant to this paragraph.

(c) For purposes of this section, costs shall be determined in accordance with fundamental fairness and consistency of method as to the allocation of costs, expenses, revenues, and other items included in the calculation.

SEC. 2. Section 53077 of the Government Code is amended and renumbered to read:

66006. (a) If a local agency requires the payment of a fee, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. *Any interest income earned by moneys in the capital* facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) Any person may request an audit of any local agency fee or charge that is subject to Section 54997, including fees or charges of school districts, in accordance with that section.

(c) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that subdivision (a) shall supersede all conflicting local laws and shall apply in charter cities.

SEC. 3. Section 53077.5 of the Government Code is amended and renumbered to read:

66007. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have

received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(d) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

(e) The Legislative Analyst shall submit a report to the Legislature by January 1, 1992, which evaluates the implementation of this section. In preparing the report, the Legislative Analyst shall consult with individuals and associations who, in the opinion of the Legislative Analyst, are knowledgeable about the impact of this section. Those individuals and associations shall include, but not be limited to, representatives of builders, landowners, planners, civil engineers, land surveyors, counties, cities, school districts, special districts, and public utilities.

(f) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 3.5. Section 53077.5 of the Government Code is amended and renumbered to read:

66007. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be

paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the applicant, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the initial holder of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the building permitholder as grantor.

(3) The contract may require the building permitholder to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit as issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

SEC. 4. Section 65913.5 of the Government Code is amended and renumbered to read:

66008. (a) Any party may protest the imposition of any fees, dedications, reservations, or other exactions imposed on a residential housing development by a local agency by meeting both of the following requirements:

(1) Tendering any required payment in full or providing satisfactory evidence of arrangements to ensure performance of the conditions necessary to meet the requirements of the imposition.

(2) Serving written notice on the governing body of the entity which notice shall contain all of the following information:

(A) A statement that the required payment is tendered, or that any conditions which have been imposed are provided for or satisfied, under protest.

(B) A statement informing the governing body of the factual elements of the dispute and the legal theory forming the basis for the protest.

(b) Compliance by any party with subdivision (a) shall not be the basis for a local agency to withhold approval of any map, plan, permit, zone change, license, or other form of permission, or concurrence, whether discretionary, ministerial, or otherwise, incident to, or necessary for, the development of the residential housing development. This section does not limit the ability of a local agency to ensure compliance with all applicable provisions of law in determining whether or not to approve or disapprove a development project.

(c) Where a reviewing local agency makes proper and valid findings that the construction of certain public improvements or facilities, the need for which is directly attributable to the proposed residential housing development, is required for reasons related to the public health, safety, and welfare, and elects to impose a requirement for construction of those improvements or facilities as a condition of approval of the proposed development, then in the event a protest is lodged pursuant to this section, that approval shall be suspended pending withdrawal of the protest, the expiration of the limitation period of subdivision (d) without the filing of an action, or resolution of any action filed. This subdivision confers no new or independent authority for imposing fees, dedications, reservations, or other exactions not presently governed by other law.

(d) A protest filed pursuant to subdivision (a) shall be filed at the time of approval or conditional approval of the development or within 90 days after the date of the imposition of the fees, dedications, reservations, or other exactions to be imposed on a residential housing development. Any party who files a protest pursuant to subdivision (a) may file an action to attack, review, set

aside, void, or annul the imposition of the fees, dedications, reservations, or other exactions imposed on a residential housing development by a local agency within 180 days after the date of the imposition. Thereafter, notwithstanding any other law to the contrary, all persons are barred from any action or proceeding or any defense of invalidity or unreasonableness of the imposition. Any proceeding brought pursuant to this subdivision shall take precedence over all matters of the calendar of the court except criminal, probate, eminent domain, forcible entry, and unlawful detainer proceedings.

(e) If the court finds in favor of the plaintiff in any action or proceeding brought pursuant to subdivision (d), the court shall direct the local agency to refund the unlawful portion of the payment, with interest at the rate of 8 percent per annum, or return the unlawful portion of the exaction imposed.

(f) Approval or conditional approval of a development occurs, for the purposes of this section, when the tentative map, tentative parcel map, or parcel map is approved or conditionally approved or when the parcel map is recorded if a tentative map or tentative parcel map is not required.

(g) The imposition of fees, dedications, reservations, or other exactions occurs, for the purposes of this section, when they are imposed or levied on a specific development.

SEC. 5. Section 65958 of the Government Code is amended and renumbered to read:

66009. Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been directly imposed, as a condition of approval of a development, as defined by Section 65927, or development project may protest, as provided in Sections 66008 and 66475.4, the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction. If a party files a protest under both Sections 66008 and 66475.4, Section 66475.4 shall prevail over Section 66008 to the extent of any conflict between those two sections.

SEC. 5.5. Section 65958 of the Government Code is amended and renumbered to read:

66009. (a) Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been imposed, the payment or performance of which is required to obtain governmental approval of a development, as defined by Section 65927, or development project may protest, as provided in Sections 66008 and 66475.4, the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction. If a party files a protest under both Sections 66008 and 66475.4, Section 66475.4 shall prevail over Section 66008 to the extent of any conflict between those two sections.

(b) The protest procedures of subdivision (a) do not apply to the protest of any tax or assessment (1) levied pursuant to a principal act which contains protest procedures or (2) that is pledged to secure payment of the principal of, or interest on, bonds or other public

indebtedness.

SEC. 6. Section 65959 of the Government Code is amended and renumbered to read:

66005. (a) When a local agency imposes any fee or exaction as a condition of approval of a proposed development, as defined by Section 65927, or development project, those fees or exactions shall not exceed the estimated reasonable cost of providing the service or facility for which the fee or exaction is imposed.

(b) This section does not apply to fees or monetary exactions expressly authorized to be imposed under Sections 66475.1 and 66477.

(c) It is the intent of the Legislature in adding this section to codify existing constitutional and decisional law with respect to the imposition of development fees and monetary exactions on developments by local agencies. This section is declaratory of existing law and shall not be construed or interpreted as creating new law or as modifying or changing existing law.

SEC. 7. Section 66000 of the Government Code is amended to read:

66000. As used in this chapter:

(a) "Development project" means any project undertaken for the purpose of development. "Development project" includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(b) "Fee" means a monetary exaction, other than a tax or special assessment, which is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in Section 66477, fees for processing applications for governmental regulatory actions or approvals, or fees collected under development agreements adopted pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4.

(c) "Local agency" means a county, city, whether general law or chartered, city and county, school district, special district, or any other municipal public corporation or district.

(d) "Public facilities" includes public improvements, public services, and community amenities.

SEC. 8. Section 66001 of the Government Code is amended to read:

66001. (a) In any action establishing, increasing, or imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall do all of the following:

(1) Identify the purpose of the fee.

(2) Identify the use to which the fee is to be put. If the use is financing public facilities, the facilities shall be identified. That identification may, but need not, be made by reference to a capital improvement plan as specified in Section 65403 or 66002, may be made in applicable general or specific plan requirements, or may be

made in other public documents that identify the public facilities for which the fee is charged.

(3) Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.

(4) Determine how there is a reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed.

(b) In any action imposing a fee as a condition of approval of a development project by a local agency on or after January 1, 1989, the local agency shall determine how there is a reasonable relationship between the amount of the fee and the cost of the public facility or portion of the public facility attributable to the development on which the fee is imposed.

(c) Upon receipt of a fee subject to this section, the local agency shall deposit, invest, account for, and expend the fees pursuant to Section 66006.

(d) The local agency shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee to identify the purpose to which the fee is to be put and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. The findings required by this subdivision need only be made for moneys in the possession of the local agency and need not be made with respect to letters of credit, bonds, or other instruments taken to secure payment of the fee at a future date.

(e) Except as provided in subdivision (f), the local agency shall refund to the then current record owner or owners of lots or units of the development project or projects on a prorated basis the unexpended or uncommitted portion of the fee, and any interest accrued thereon, for which need cannot be demonstrated pursuant to subdivision (d). A local agency may refund the unexpended or uncommitted revenues by direct payment, by providing a temporary suspension of fees, or by any other means consistent with the intent of this section. The determination by the governing body of the local agency of the means by which those revenues are to be refunded is a legislative act.

(f) If the administrative costs of refunding unexpended or uncommitted revenues pursuant to subdivision (e) exceed the amount to be refunded, the local agency, after a public hearing, notice of which has been published pursuant to Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which fees are collected subject to this chapter and which serves the project on which the fee was originally imposed.

SEC. 9. Section 66003 of the Government Code is amended to read:

66003. Sections 66001 and 66002 do not apply to a fee imposed

pursuant to a reimbursement agreement by and between a city or county and a property owner or developer for that portion of the cost of a public facility paid by the property owner or developer which exceeds the need for the public facility attributable to and reasonably related to the development. This chapter shall become operative on January 1, 1989.

SEC. 10. Section 66004 is added to the Government Code, to read:

66004. The establishment or increase of any fee pursuant to this chapter shall be subject to the requirements of Chapter 13.1 (commencing with Section 54994.1) of Part 1 of Division 2 of Title 5.

SEC. 11. Section 3.5 of this bill incorporates amendments to Section 53077.5 of the Government Code proposed by both this bill and AB 3143 It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends, or amends and renumbers, Section 53077.5 of the Government Code, and (3) this bill is enacted after AB 3143, in which case Section 3 of this bill shall not become operative.

SEC. 12. Section 5.5 of this bill incorporates amendments to Section 65958 of the Government Code proposed by both this bill and SB 1407. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends, or amends and renumbers, Section 65958 of the Government Code, and (3) this bill is enacted after SB 1407, in which case Section 5 of this bill shall not become operative.

CHAPTER 419

An act to amend Section 805 of the Business and Professions Code, relating to health.

[Approved by Governor August 12, 1988. Filed with Secretary of State August 15, 1988.]

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

SECTION 1. Section 805 of the Business and Professions Code is amended to read:

805. (a) As used in this section, the following terms have the following definitions:

(1) "Peer review body" includes:

(A) A medical or professional staff of any licensed health care facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code or of a facility certified to participate in the federal Medicare program as an ambulatory surgical center.

(B) A health care service plan registered under Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code or a nonprofit hospital service plan regulated under

Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(C) Any medical, psychological, dental, or podiatric professional society having as members at least 25 percent of the eligible licentiates in the area in which it functions (which must include at least one county), which is not organized for profit and which has been determined to be exempt from taxes pursuant to Section 23701 of the Revenue and Taxation Code.

(D) A committee organized by any entity consisting of or employing more than 25 licentiates of the same class, which functions for the purpose of reviewing the quality of professional care provided by members or employees of that entity.

(2) "Licentiate" means a physician and surgeon, podiatrist, clinical psychologist, or dentist.

(3) "Agency" means the relevant state licensing agency having regulatory jurisdiction over the licentiates listed in paragraph (2).

(4) "Staff privileges" means any arrangement under which a licentiate is allowed to practice in or provide care for patients in a health facility. Those arrangements shall include, but are not limited to, full staff privileges, active staff privileges, limited staff privileges, auxiliary staff privileges, provisional staff privileges, temporary staff privileges, courtesy staff privileges, locum tenens arrangements, and contractural arrangements to provide professional services, including, but not limited to, arrangements to provide outpatient services.

(5) "Denial or termination of privileges" includes failure or refusal to renew a contract or to renew, extend, or reestablish any staff privileges, when the action is based on medical disciplinary cause or reason.

(6) "Medical disciplinary cause or reason" means that aspect of a licentiate's competence or professional conduct which is reasonably likely to be detrimental to patient safety or to the delivery of patient care.

(7) "805 report" means the written report required under subdivision (b).

(b) The chief of staff of a medical or professional staff or other chief executive officer, medical director, or administrator of any peer review body shall file an 805 report with the relevant agency whenever any of the following actions are taken as a result of a determination of a peer review body:

(1) A licentiate's application for staff privileges or membership is denied or rejected for a medical disciplinary cause or reason.

(2) A licentiate's membership, staff privileges, or employment is terminated or revoked for a medical disciplinary cause or reason.

(3) Restrictions are imposed, or voluntarily accepted, on staff privileges, membership, or employment for a cumulative total of 30 days or more for any 12-month period, for a medical disciplinary cause or reason.

In addition to the duty to report as set forth in paragraphs (1), (2)

and (3), the peer review body also has a duty to report under this section a licentiate's resignation from membership, staff, or employment following notice of an impending investigation based on information indicating medical disciplinary cause or reason.

The 805 report shall be filed within 30 days after the effective date of the denial, termination, restriction, or resignation, or after the exhaustion of administrative procedures, without regard to any filing for judicial review.

An 805 report shall also be filed within 30 days following the imposition of summary suspension of staff privileges, membership, or employment, if the summary suspension remains in effect for a period in excess of 14 days.

A copy of the 805 report, and a notice advising the licentiate of his or her right to submit additional statements or other information pursuant to Section 800, shall be sent by the peer review body to the licentiate named in the report.

The information to be reported in an 805 report shall include the name of the licentiate involved, a description of the facts and circumstances of the medical disciplinary cause or reason, and any other relevant information deemed appropriate by the reporter.

A supplemental report shall also be made within 30 days following the date the licentiate is deemed to have satisfied any terms, conditions, or sanctions imposed as disciplinary action by the reporting peer review body. In performing its dissemination functions required by Section 805.5, the agency shall include a copy of a supplemental report, if any, whenever it furnishes a copy of the original 805 report.

In those instances where another peer review body is required to file an 805 report, a health care service plan or nonprofit hospital service plan is not required to file a separate report with respect to action attributable to the same medical disciplinary cause or reason.

(c) The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976. The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall disclose reports as required by Section 805.5.

An 805 report shall be maintained by an agency for dissemination purposes for a period of three years after receipt.

(d) No person shall incur any civil or criminal liability as the result of making any report required by this section.

(e) Failure to make a report pursuant to this section is a misdemeanor punishable by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

SEC. 2. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 420

An act to amend Sections 1202.1, 3781, 5011, 5154, 5157, and 5157.5 of, and to add Sections 5152.6, 5154.3, 5156.5, and 5157.2 to, the Elections Code, relating to elections.

[Approved by Governor August 19, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1202.1 of the Elections Code is amended to read:

1202.1. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may apply for a special absentee voter ballot. Any application made pursuant to this section which is received by the clerk prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as a special absentee voter, the clerk shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 1200. The clerk shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures which are to be submitted to the voters and to which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 17101 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The clerk shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with the provisions of this section, except that prior to election day, special absentee voter ballots shall be secured separately in a sealed ballot box reserved for that purpose.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and the military or other contingency does not exist during the normal absentee voting period, that voter may make an application for an absentee ballot pursuant to Sections 1200 and 1201. If an application is made pursuant to this subdivision, the clerk shall reject the voted ballot previously cast and process the application in accordance with Chapter 1 (commencing with Section 1000).

SEC. 2. Section 3781 of the Elections Code is amended to read:

3781. (a) Whenever any county measure qualifies for a place on the ballot, the county clerk shall transmit a copy of the measure to the county auditor and to the county counsel or to the district attorney in any county which has no county counsel.

(b) The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point boldface type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

(c) Not later than 88 days prior to an election which includes a county ballot measure, the board of supervisors may direct the county auditor to review the measure and determine whether the substance thereof, if adopted, would affect the revenues or expenditures of the county. He or she shall prepare a fiscal impact statement which estimates the amount of any increase or decrease in revenues or costs to the county if the proposed measure is adopted. The fiscal impact statement is "official matter" within the meaning of those words as used in Section 10010 and shall be printed preceding the arguments for and against the measure. The fiscal impact statement shall not exceed 500 words in length.

SEC. 3. Section 5011 of the Elections Code is amended to read:

5011. Whenever any city measure qualifies for a place on the ballot, the governing body may direct the city clerk to transmit a copy of the measure to the city attorney, unless the organization or salaries of the office of the city attorney are affected. The city attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the city attorney, the governing board may direct the city clerk to prepare the impartial analysis. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 4. Section 5152.6 is added to the Elections Code, to read:

5152.6. Each section of the petition shall have attached thereto the affidavit of the person soliciting the signatures. This affidavit shall be substantially in the same form as set forth in Section 3519 except that the affidavit shall declare that the circulator is a registered voter of the district.

SEC. 5. Section 5154 of the Elections Code is amended to read:

5154. (a) If the initiative petition is signed by voters not less in number than 10 percent of the voters in the district where the total number of registered voters is less than 500,000, or not less in number than 5 percent of the voters in the district where the total number of registered voters is 500,000 or more, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the district board shall do either of the following:

(1) Pass the ordinance without alteration either at the regular meeting at which it is presented or within 10 days after it is presented.

(2) Immediately order that the ordinance be submitted to the voters, without alteration, at the next statewide election or at the next regular election date under Section 2500 whichever comes first, provided that the election occurs not less than 88 days after the order of the district board.

(b) Notwithstanding subdivision (a), nothing shall prohibit the board from calling a special election which shall be held not less than 88 days nor more than 103 days after the date of the presentation of the proposed ordinance to the board. When it is legally possible to hold a special election under this chapter within six months prior to a regular election, the board may submit the proposed ordinance at the regular election instead of at a special election. Not more than one special election may be held pursuant to this article during any period of six months.

(c) The number of registered voters referred to in subdivision (a) shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State made prior to publication or posting of the notice of intention to circulate the initiative petition.

SEC. 6. Section 5154.3 is added to the Elections Code, to read:

5154.3. If the initiative petition does not request a special election and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the board to the voters at the next regular local election for the district or statewide

election, whichever comes first, provided that the election occurs not less than 88 days after the order of the district board.

SEC. 7. Section 5156.5 is added to the Elections Code, to read:

5156.5. Whenever any petition is submitted to the voters, the clerk of the district shall transmit a copy of the measure to the county counsel, or to the district attorney if there is no county counsel, of the county that contains the largest number of registered voters of the district. The county counsel or district attorney shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis shall be printed preceding the arguments for and against the measure. The analysis shall not exceed 500 words in length.

In the event the entire text of the measure is not printed on the ballot nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point bold type, a legend substantially as follows:

"The above statement is an impartial analysis of Ordinance or Measure _____. If you desire a copy of the ordinance or measure, please call the elections official's office at (insert telephone number) and a copy will be mailed at no cost to you."

SEC. 8. Section 5157 of the Elections Code is amended to read:

5157. The persons filing an initiative petition pursuant to this article may file a written argument in favor of the ordinance. The district board may submit an argument against the ordinance. Neither argument shall exceed 300 words in length, and both arguments shall be printed and mailed to each voter with the sample ballot for the election.

The following statement shall be printed on the front cover, or if none, on the heading of the first page, of the printed arguments:

"Arguments in support of or in opposition to the proposed laws are the opinions of the authors."

Printed arguments submitted to voters in accordance with this section shall be titled either "Argument In Favor Of Measure _____" or "Argument Against Measure _____," accordingly, the blank spaces being filled in only with the letter or number, if any, which designates the measure. At the discretion of the clerk, the word "Proposition" may be substituted for the word "Measure" in such titles. Words used in the title shall not be counted when determining the length of any argument.

SEC. 9. Section 5157.2 is added to the Elections Code, to read:

5157.2. Based on the time reasonably necessary to prepare and print the arguments and sample ballots, and to permit the 10-calendar day public examination as provided in Article 4 (commencing with Section 5215) for the particular election, the clerk charged with the duty of conducting the election shall fix and determine a reasonable date prior to the election for the submission to the clerk of an argument in favor of and against the ordinance, and additional rebuttal arguments as provided in Section 5157.5. Arguments may be changed or withdrawn by their proponents until

and including the date fixed by the clerk.

SEC. 10. Section 5157.5 of the Elections Code is amended to read:

5157.5. The persons filing the initiative petition may prepare and submit a rebuttal argument not exceeding 250 words. The district board may prepare and submit a rebuttal to the argument in favor of the ordinance not exceeding 250 words. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 421

An act to add Section 2780.5 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 19, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 2780.5 is added to the Revenue and Taxation Code, to read:

2780.5. For purposes of this chapter, "replicated payment" means a payment, submitted by or on behalf of a taxpayer, which is indicated for application to a specific tax or tax installment which has already been paid, whether or not the prior payment and the replicated payment are in the same amount.

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

In order to ensure that existing tax relief provisions are applied without undue limitation and in time to be of benefit to taxpayers during the current property tax year, it is necessary that this act go into immediate effect.

CHAPTER 422

An act to add Chapter 9.6 (commencing with Section 60370) to Division 2 of Title 6 of the Government Code, relating to district utility services.

[Approved by Governor August 19, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Chapter 9.6 (commencing with Section 60370) is added to Division 2 of Title 6 of the Government Code, to read:

CHAPTER 9.6. DISTRICT UTILITY SERVICES

60370. As used in this chapter, "district" means any agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries. "District" shall not include the state, any city, city and county, county, or school district.

60371. (a) Whenever a district furnishes residential light, heat, water, or power through a master meter, or furnishes individually metered service in a multiunit residential structure, mobilehome park, or farm labor camp where the owner, manager, or farm labor employer is listed by the district as the customer of record of the service, the district shall make every good faith effort to inform the actual users of the services, when the account is in arrears, by means of a notice, that service will be terminated in 10 days. The notice shall further inform the actual users that they have the right to become customers of the district without being required to pay the amount due on the delinquent account.

(b) The district is not required to make service available to the actual users unless each actual user agrees to the terms and conditions of service, and meets the requirements of the district's rules and tariffs. However, if one or more actual users are willing and able to assume responsibility for the entire account to the satisfaction of the district, or if there is a physical means, legally available to the district, of selectively terminating service to those actual users who have not met the requirements of the district's rules and tariffs, the district shall make service available to the actual users who have met those requirements.

(c) Where prior service for a period of time is a condition for establishing credit with the district, residence and proof of prompt payment of rent for that period of time is a satisfactory equivalent.

(d) Any actual user who becomes a customer of the district pursuant to this section whose periodic payments, such as rental payments, include charges for residential light, heat, water, or power, where these charges are not separately stated, may deduct

from the periodic payment each payment period all reasonable charges paid to the district for those services during the preceding payment period.

60372. (a) No district furnishing its inhabitants with light, water, power, or heat may terminate residential service for nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, as provided in Section 60371.

(b) No district shall terminate residential service for nonpayment in any of the following situations:

(1) During the pendency of an investigation by the district of a customer dispute or complaint.

(2) When a customer has been granted an extension of the period for payment of a bill.

(3) On the certification of a licensed physician and surgeon that to do so will be life threatening to the customer and the customer is financially unable to pay for service within the normal payment period and is willing to enter into an amortization agreement with the district pursuant to subdivision (e) with respect to all charges that the customer is unable to pay prior to delinquency.

(c) Any residential customer who has initiated a complaint or requested an investigation within five days of receiving the disputed bill, or who has, within 13 days of mailing of the notice required by subdivision (a), made a request for extension of the payment period of a bill asserted to be beyond the means of the customer to pay in full during the normal period for payment, shall be given an opportunity for review of the complaint, investigation, or request by a review manager of the district. The review shall include consideration of whether the customer shall be permitted to amortize the unpaid balance of the account over a reasonable period of time, not to exceed 12 months. No termination of service shall be effected for any customer complying with an amortization agreement, if the customer also keeps the account current as charges accrue in each subsequent billing period.

(d) Any customer whose complaint or request for an investigation pursuant to subdivision (c) has resulted in an adverse determination by the district may appeal the determination to the board. Any subsequent appeal of the dispute or complaint to the board is not subject to this section.

(e) Any customer meeting the requirements of paragraph (3) of subdivision (b) shall, upon request, be permitted to amortize, over a period not to exceed 12 months, the unpaid balance of any bill asserted to be beyond the means of the customer to pay within the normal period for payment.

60373. (a) No district furnishing light, heat, water, or power may terminate residential service on account of nonpayment of a delinquent account unless the district first gives notice of the delinquency and impending termination, at least 10 days prior to the proposed termination, by means of a notice mailed, postage prepaid,

to the customer to whom the service is billed not earlier than 19 days from the date of mailing the district's bill for services, and the 10-day period shall not commence until five days after the mailing of the notice.

(b) Every district shall make a reasonable, good faith effort to contact an adult person residing at the premises of the customer by telephone or in person at least 48 hours prior to any termination of service.

(c) Every notice of termination of service pursuant to subdivision (a) shall include all of the following information:

(1) The name and address of the customer whose account is delinquent.

(2) The amount of the delinquency.

(3) The date by which payment or arrangements for payment is required in order to avoid termination.

(4) The procedure by which the customer may initiate a complaint or request an investigation concerning service or charges, except that if the bill for service contains a description of that procedure, the notice pursuant to subdivision (a) is not required to contain that information.

(5) The procedure by which the customer may request amortization of the unpaid charges.

(6) The procedure for the customer to obtain information on the availability of financial assistance, including private, local, state, or federal sources, if applicable.

(7) The telephone number of a representative of the district who can provide additional information or institute arrangements for payment.

Every notice of termination of service pursuant to subdivision (b) shall include the items of information in paragraphs (1), (2), (3), (6), and (7).

All written notices shall be in a clear and legible format.

(d) If a residential customer fails to comply with an amortization agreement, the district shall not terminate service without giving notice to the customer at least 48 hours prior to termination of the conditions the customer is required to meet to avoid termination, but the notice does not entitle the customer to further investigation by the district.

(e) No termination of service may be effected without compliance with this section, and any service wrongfully terminated shall be restored without charge for the restoration of service.

60374. No district shall, by reason of delinquency in payment for any electric, gas, heat, or water services, cause cessation of the services on any Saturday, Sunday, legal holiday, or at any time during which the business offices of the district are not open to the public.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level

of service mandated by this act.

CHAPTER 423

An act to amend Section 6391 of the Labor Code, relating to hazardous substances.

[Approved by Governor August 19, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 6391 of the Labor Code is amended to read:

6391. The information which manufacturers shall provide to their purchasers pursuant to the provisions of Section 6390 shall include the following, if pertinent:

(a) The chemical name, any common names, and the CAS number of the hazardous substance.

(b) The hazards or other risks in the use of the hazardous substance, including all of the following:

(1) The potential for fire, explosion, and reactivity.

(2) The acute and chronic health effects or risks from exposure.

(3) The potential routes of exposure and symptoms of overexposure.

(c) The hazards or other risks of exposure to the combustion products of the hazardous substance.

(d) The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the hazardous substance, and its combustion products.

(e) The emergency procedures for spills, fire, disposal, and first aid.

(f) A description in lay terms, if not otherwise provided, on either a separate sheet or with the body of the information specified in this section, of the specific potential health risks posed by the hazardous substance and its combustion products intended to alert any person reading the information.

(g) The month and year that the information was compiled and, for an MSDS issued after January 1, 1981, the name and address of the manufacturer responsible for preparing the information.

CHAPTER 424

An act to amend Section 19414 of the Business and Professions Code, relating to horseracing.

[Approved by Governor August 19, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 19414 of the Business and Professions Code is amended to read:

19414. (a) "Quarter horse racing" means that form of horseracing in which the participating horses are "quarter horses," as defined in Section 19413.5, and are ridden by jockeys in races over distances not more than one-half of a mile.

(b) Notwithstanding subdivision (a), the board may permit quarter horse races over distances of up to five and one-half furlongs.

CHAPTER 425

An act to amend Section 8880.5 of the Government Code, relating to the California State Lottery, and making an appropriation therefor.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 8880.5 of the Government Code is amended to read:

8880.5. Allocations for education:

The California State Lottery Education Fund is created within the State Treasury, and is continuously appropriated for carrying out the purposes of this chapter. The Controller shall draw warrants on this fund and distribute them quarterly in the following manner, provided that the payments specified in subdivisions (a) to (h), inclusive, shall be equal per capita amounts:

(a) Payments shall be made directly to public school districts, including county superintendents of schools, serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(b) Payments shall also be made directly to public school districts serving community colleges, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(c) Payments shall also be made directly to the Board of Trustees

of the California State University on the basis of an amount for each unit of equivalent full-time enrollment. Funds received by the trustees shall be deposited in and expended from the California State University Lottery Education Fund which is hereby created.

(d) Payments shall also be made directly to the Regents of the University of California on the basis of an amount for each unit of equivalent full-time enrollment.

(e) Payments shall also be made directly to the Board of Directors of the Hastings College of the Law on the basis of an amount for each unit of equivalent full-time enrollment.

(f) Payments shall also be made directly to the California Maritime Academy Board of Governors on the basis of an amount for each unit of equivalent full-time enrollment.

(g) Payments shall also be made directly to the Department of the Youth Authority for educational programs serving kindergarten and grades 1 to 12, inclusive, or any part thereof, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(h) Payments shall also be made directly to the two California Schools for the Deaf, the California School for the Blind, and the three Diagnostic Schools for Neurologically Handicapped Children, on the basis of an amount for each unit of equivalent full-time enrollment.

(i) Payments shall also be made directly to the State Department of Developmental Services for clients with developmental or mental disabilities who are enrolled in state hospital education programs, including developmental centers, on the basis of an equal amount for each unit of average daily attendance, as defined by law.

(j) No Budget Act or other statutory provision shall direct that payments for public education made pursuant to this chapter be used for purposes and programs (including workload adjustments and maintenance of the level of service) authorized by Chapters 498, 565, and 1302 of the Statutes of 1983, Chapter 97 or 258 of the Statutes of 1984, or Chapter 1 of the Statutes of 1984, Second Extraordinary Session.

(k) School districts and other agencies receiving funds distributed pursuant to this chapter may at their option utilize funds allocated by this chapter to provide additional funds for those purposes and programs prescribed by subdivision (j) for the purpose of enrichment or expansion.

(*l*) As a condition of receiving any moneys pursuant to subdivision (a) or (b), each district and county superintendent of schools shall establish a separate account for the receipt and expenditure of those moneys, which account shall be clearly identified as a lottery education account.

It is the intent of this chapter that all funds allocated from the California State Lottery Education Fund shall be used exclusively for the education of pupils and students and no funds shall be spent for acquisition of real property, construction of facilities, financing of research, or any other noninstructional purpose.

SEC. 2. Section 1 of this act shall not become operative until July 1, 1989.

SEC. 3. The Legislature finds and declares that Section 1 of this act, which amends Section 8880.5 of the Government Code, furthers purposes of the California State Lottery Act of 1984.

CHAPTER 426

An act to add Section 45452.5 to the Education Code, relating to schools.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 45452.5 is added to the Education Code, to read:

45452.5. Unless otherwise provided by written agreement between a school district and a city, county, or city and county, if the city, county, or city and county provides school crossing guards, the city, county, or city and county shall pay for the cost of those guards.

CHAPTER 427

An act to amend Sections 18205, 18210, 18216, 18266, and 18455 of the Financial Code, relating to industrial loan companies.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 18205 of the Financial Code is amended to read:

18205. Except as otherwise provided for in this division, an industrial loan company shall not make any loan or purchase or discount any other obligation that provides for a repayment of principal over more than 120 months and 30 days.

SEC. 2. Section 18210 of the Financial Code is amended to read:

18210. (a) Except as provided in Sections 18205.5 and 18209 and subject to subdivisions (b) and (d), an industrial loan company shall not make any loan or purchase or discount any note secured primarily by real property unless the loan or other obligation is repayable in substantially equal weekly, semimonthly, monthly, or quarterly installments during its term, which shall not exceed 30 years and 30 days from the date the loan or other obligation is made

or acquired by the company.

(b) Any consumer loan or any purchase or discount of any consumer obligation having a term in excess of three years from the date the loan or other obligation is made or acquired by the company shall be secured solely by real property or solely by personal property. However, if the original principal amount of the consumer loan or obligation is twenty thousand dollars ($20,000) or more, then the loan or obligation shall be secured solely by real property or solely by personal property, or by both real property and personal property. All loans and obligations made and purchased pursuant to this subdivision shall be repayable in installments and within a term not to exceed the limitations set forth in subdivision (a), except that consumer loans or obligations secured solely by personal property shall have a term not to exceed the term provided for in Section 18205 and except as otherwise may be provided for in Sections 18207, 18208, and 18209.

(c) Notwithstanding any other provision of this division, an industrial loan company may make loans and acquire or discount obligations having a term in excess of three years secured primarily by real property pursuant to subdivision (a) or secured solely or primarily by real property pursuant to subdivision (b), provided that all of the loans and obligations in excess of three years shall not in the aggregate exceed 70 percent of the industrial loan company's total assets.

(d) (1) In order to ensure the safety and soundness of industrial loan companies and to avoid an unreasonable concentration of loans and obligations that could result in balloon payments, all loans and obligations specified in subdivision (c) with a term in excess of 10 years and 30 days shall be repaid in substantially equal weekly, semimonthly, monthly, or quarterly installments during their term.

(2) In the event paragraph (1) is held invalid by any court of competent jurisdiction as preempted by, or in violation of, any federal law, then the aggregate of all loans and obligations having a term in excess of 10 years and 30 days secured solely or primarily by real property and having other than substantially equal weekly, semimonthly, monthly or quarterly installments during their term shall not exceed 1 percent of an industrial loan company's assets.

SEC. 3. Section 18216 of the Financial Code is amended to read:

18216. Notwithstanding Section 18211, an appraisal fee may be charged by an industrial loan company in connection with an application or request for any loan having a face amount in excess of five thousand dollars ($5,000) which is secured primarily by real property whether or not the loan is made. That fee shall not exceed the actual cost of the appraisal or 1 percent of the face amount of the loan, whichever is the lesser. The appraisal shall be rendered to the industrial loan company in writing by a qualified appraiser approved in writing by the commissioner. Only one such fee for appraising the same real property made in connection with the same borrower may be collected in any 12-month period. The fee is not included in

computing the maximum charges which may be made under this division.

SEC. 4. Section 18266 of the Financial Code is amended to read:

18266. With the exception of any loan guaranteed in whole or in part by the Administrator of Veterans Affairs pursuant to the Servicemen's Readjustment Act of 1944 or any act of Congress supplementary or amendatory thereof, or any loan insured by the Federal Housing Administration pursuant to the National Housing Act or any act of Congress supplementary or amendatory thereof, any loan or other obligation made or acquired by an industrial loan company that has investment certificates outstanding which is secured primarily by real property and has an outstanding principal balance of ten thousand dollars ($10,000) or more shall be secured by real property or personal property having combined a fair market value at the time the loan or other obligation is made or acquired of at least 115 percent of the principal amount owing on the loan or obligation and on prior encumbrances, except nondelinquent tax liens, secured by the same real property. Fair market value of the real property for the purposes of this section shall be determined by a real property appraiser who meets the qualifications established by regulation of the commissioner. Any loan or obligation made or acquired by an industrial loan company that has investment certificates outstanding which is secured solely by motor vehicles or other personal property shall be secured by such property having a fair market value at the time the loan or other obligation is made or acquired of at least 100 percent of the principal amount owing on the loan or obligation. The personal property held as security shall be of a kind or class that has been declared eligible by regulation of the commissioner.

SEC. 5. Section 18455 of the Financial Code is amended to read:

18455. An industrial loan company shall not, directly or indirectly, make any loan to, or purchase a contract, loan, or chose in action from, hold a lease obligation of, or purchase a lease contract from:

(a) A person who is an officer or director of the industrial loan company or of its holding or affiliated company.

(b) A person who is a holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated company. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.

(c) A person in which an officer or director of the industrial loan company or of any holding or affiliated company directly or indirectly is financially interested, directly or indirectly.

(d) A person in which the holder of record or beneficiary of the shares of the industrial loan company or of any holding or affiliated

company directly or indirectly is financially interested, directly or indirectly. This restriction shall not apply to persons holding less than 10 percent of the shares of a holding company or affiliate company which is exempt from the qualification requirements of the Corporate Securities Law of 1968 contained in Section 25130 of the Corporations Code, pursuant to subdivision (a) or (b) of Section 25101 of the Corporations Code.

(e) A person who acquired such contracts directly or indirectly or through intervening assignments from a person described in subdivision (a), (b), (c), or (d).

Any officer, director or shareholder of an industrial loan company who directly or indirectly makes or procures or participates in making or procuring a loan or contract in violation of this section or knowingly approves the same is personally liable for any loss resulting to an industrial loan company from such loan or contract, in addition to any other penalties provided by law.

The prohibition contained in this section shall not apply to the purchase by an industrial loan company of a contract, loan, or chose in action from a personal property broker, a consumer finance lender, a commercial finance lender, a mortgage broker, a mortgage banker, a real estate broker or other licensed lender, provided written authorization for the purchase is obtained from the commissioner.

CHAPTER 428

An act to amend Section 1810 of the Financial Code, relating to transmission of money abroad.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1810 of the Financial Code is amended to read:

1810. (a) Every licensee or its agent shall forward all moneys received for transmission to a foreign country or give instructions committing equivalent funds to the person designated by the customer within 10 days after receiving that money, unless otherwise ordered by his or her customer.

(b) Whenever a licensee, either directly or indirectly through an agent, receives money for transmission by means of selling a check or draft of the type described in subdivision (b) of Section 1800.5, the purchaser of the instrument shall be deemed to have ordered compliance with subdivision (a), as follows:

(1) In case the instrument is payable at a definite time, not later than that definite time.

(2) In case the instrument is payable on demand, on or before the next business day.

CHAPTER 429

An act to amend Sections 4681 and 4683 of the Public Resources Code, relating to forest resources.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 4681 of the Public Resources Code is amended to read:

4681. State nurseries shall be maintained under the management of the department for all of the following purposes:

(a) Operation of a state seed bank to provide facilities for the processing and storage of adequate supplies of high-quality seed necessary to protect the genetic integrity and diversity of forest tree and plant species, giving emphasis to those native species threatened with extinction.

(b) Reforestation of public and private lands, giving preference to forest land which has been substantially damaged by fire, flood, insects, disease, or other natural causes.

(c) Production for sale of tree seedlings planted for purposes of meeting resource conservation standards required pursuant to Section 4561 and the rules and regulations of the board. For this purpose, the department shall take whatever steps are necessary to ensure to the maximum degree feasible that the seedlings are adapted to the planting site, and represent an appropriate diversity of forest species.

SEC. 2. Section 4683 of the Public Resources Code is amended to read:

4683. The department may purchase nursery stock and seed, and may distribute stock or seed for the following purposes:

(a) Public planting or reforestation of public lands, giving emphasis to forest and watershed land which has been substantially damaged by fire, flood, insects, disease, or other natural causes.

(b) Restoration of native tree and plant species threatened with extinction.

(c) Soil erosion control, watershed protection, or farm windbreaks.

(d) The production of forest products and farm woodlot products on private lands.

CHAPTER 430

An act to amend Section 11003.4 of the Business and Professions Code, relating to limited-equity housing cooperatives.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 11003.4 of the Business and Professions Code is amended to read:

11003.4. (a) A "limited-equity housing cooperative" is a corporation which meets the criteria of Section 11003.2 and which also meets the criteria of Section 33007.5 of the Health and Safety Code. Except as provided in subdivision (b), a limited-equity housing cooperative shall be subject to all the requirements of this chapter pertaining to stock cooperatives.

(b) A limited-equity housing cooperative shall be exempt from the requirements of this chapter if the limited-equity housing cooperative complies with all the following conditions:

(1) The United States Department of Housing and Urban Development, the Farmers Home Administration, the National Consumers Cooperative Bank, the California Housing Finance Agency, or the Department of Housing and Community Development, alone or in any combination with each other, or with the city, county, or redevelopment agency in which the cooperative is located, directly finances or subsidizes at least 50 percent of the total construction or development cost or one hundred thousand dollars ($100,000), whichever is less; or the real property to be occupied by the cooperative was sold by the Department of Transportation for the development of the cooperative and has a regulatory agreement approved by the Department of Housing and Community Development for the term of the permanent financing, notwithstanding the source of the permanent subsidy or financing.

(2) No more than 20 percent of the total development cost of a limited-equity mobilehome park, and no more than 10 percent of the total development cost of other limited-equity housing cooperatives, is provided by purchasers of membership shares.

(3) A regulatory agreement which covers the cooperative for a term of at least as long as the duration of the permanent financing or subsidy, notwithstanding the source of the permanent subsidy or financing has been duly executed between the recipient of the financing and either (A) one of the federal or state agencies specified in paragraph (1) or (B) a local public agency which is providing financing for the project under a regulatory agreement meeting standards of the Department of Housing and Community Development. The regulatory agreement shall make provision for at least all of the following:

(A) Assurances for completion of the common areas and facilities to be owned or leased by the limited-equity housing cooperative, unless a construction agreement between the same parties contains written assurances for completion.

(B) Governing instruments for the organization and operation of the housing cooperative by the members.

(C) The ongoing fiscal management of the project by the cooperative, including an adequate budget, reserves, and provisions for maintenance and management.

(D) Distribution of a membership information report to any prospective purchaser of a membership share, prior to purchase of that share. The membership information report shall contain full disclosure of the financial obligations and responsibilities of cooperative membership, the resale of shares, the financing of the cooperative including any arrangements made with any partners, membership share accounts, occupancy restrictions, management arrangements, and any other information pertinent to the benefits, risks, and obligations of cooperative ownership.

(4) The federal, state, or local public agency which executes the regulatory agreement shall satisfy itself that the bylaws, articles of incorporation, occupancy agreement, subscription agreement, any lease of the regulated premises, any arrangement with partners, and arrangement for membership share accounts provide adequate protection of the rights of cooperative members.

(5) The federal or state agency shall receive from the attorney for the recipient of the financing or subsidy a legal opinion that the cooperative meets the requirements of Section 33007.5 of the Health and Safety Code and the exemption provided by this section.

(c) Any limited-equity cooperative which meets the requirements for exemption pursuant to subdivision (b) may elect to be subject to all provisions of this chapter.

(d) The developer of the cooperative shall notify the Department of Real Estate, on a form provided by the department, that an exemption is claimed under this section. The Department of Real Estate shall retain this form for at least four years for statistical purposes.

CHAPTER 431

An act to add Section 1803.5 to the Financial Code, relating to financial transactions.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1803.5 is added to the Financial Code, to read:

1803.5. (a) Before any applicant is issued a license the applicant shall file with the superintendent, in the form required by the superintendent, an irrevocable consent appointing the superintendent to receive service of any lawful process in any noncriminal judicial or administrative proceeding against the person, that person's successor, executor, or administrator, which arises under this article or any regulation or order issued under this article after the consent has been filed.

(b) Service of process after consents have been filed pursuant to this section shall have the same force and validity as if personally served on the person.

(c) Service may be made by leaving a copy of the process at any office of the superintendent, but the service is not effective unless (1) the party making the service, who may be the superintendent, immediately sends notice of the service and a copy of the process by registered or certified mail to the party served at his or her last address on file with the superintendent, and (2) an affidavit of compliance with this section by the party making service is filed in the case on or before the return date, if any, or such further time as the court, in the case of a judicial proceeding, or the administrative agency, in the case of an administrative proceeding, allows.

(d) Any consent filed pursuant to the provisions of this section shall be deemed to have appointed the superintendent and any successor from time-to-time in office.

CHAPTER 432

An act to amend Sections 667.5 and 1192.7 of the Penal Code, relating to criminal law.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 667.5 of the Penal Code, as amended by

Section 1.5 of Chapter 89 of the Statutes of 1988, is amended to read:

667.5. Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior was one of the violent felonies specified in subdivision (c); provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in subdivision (2) of Section 261.

(4) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(5) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

(6) Lewd acts on a child under 14 as defined in Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7 or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in Section 12022.5.

(9) Any robbery perpetrated in an inhabited dwelling house or trailer coach, as defined in the Vehicle Code, or in the inhabited portion of any other building, wherein it is charged and proved that the defendant personally used a deadly or dangerous weapon, as provided in subdivision (b) of Section 12022, in the commission of that robbery.

(10) Arson, in violation of subdivision (a) of Section 451.

(11) The offense defined in subdivision (a) of Section 289 where

the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for such extraordinary crimes of violence against the person.

(d) For the purposes of this section the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole whichever first occurs including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which if committed in California is punishable by imprisonment in state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while

the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 2. Section 1192.7 of the Penal Code, as amended by Section 2 of Chapter 89 of the Statutes of 1988, is amended to read:

1192.7. (a) Plea bargaining in any case in which the indictment or information charges any serious felony or any offense of driving while under the influence of alcohol, drugs, narcotics, or any other intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a reduction or dismissal would not result in a substantial change in sentence.

(b) As used in this section "plea bargaining" means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, whereby the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, "serious felony" means any of the following:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under the age of 14 years; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any other felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a noninmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing great bodily injury or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary of an inhabited dwelling house, or trailer coach as defined by the Vehicle Code, or inhabited portion of any other building; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the state prison for life; (23) any felony in which the defendant

personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, giving, or offering to sell, furnish, administer, or give heroin, cocaine, or phencyclidine (PCP) to a minor; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person; (26) any attempt to commit a crime listed in this subdivision other than an assault.

(d) As used in this section, "bank robbery" means to take or attempt to take, by force or violence, or by intimidation from the person or presence of another any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association.

As used in this subdivision, the following terms have the following meanings:

(1) "Bank" means any member bank of the Federal Reserve System, and any bank, banking association, trust company, savings bank, or other banking institution organized or operating under the laws of the United States, and any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

(2) "Savings and loan association" means any federal savings and loan association and any "insured institution" as defined in Section 401 of the National Housing Act, as amended, and any federal credit union as defined in Section 2 of the Federal Credit Union Act.

(3) "Credit union" means any federal credit union and any state-chartered credit union the accounts of which are insured by the Administrator of the National Credit Union Administration.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

CHAPTER 433

An act to add Chapter 21.5 (commencing with Section 22515) to Division 8 of the Business and Professions Code, relating to money exchange houses.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Chapter 21.5 (commencing with Section 22515) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 21.5. MONEY EXCHANGE HOUSES

22515. As used in this chapter, the following definitions are applicable:

(a) "Money exchange house" means any individual or business engaged in the business of exchanging or dealing in the currency of the United States, Mexico, or any other country. It does not include any bank, savings association, or credit union chartered under the laws of this state or the United States or to any other business or entity regulated by the Financial Code.

(b) "Currency" means any coined money, banknotes, or other paper money as are authorized by law which circulates from hand to hand as the medium of exchange.

(c) "Buying dollars" means a transaction exchanging foreign currency for currency of the United States.

(d) "Selling dollars" means a transaction exchanging the currency of the United States for foreign currency.

22516. (a) All window and exterior signs concerning the rates of exchange at a money exchange house shall clearly state the rate of exchange for both the buying and selling of dollars.

(b) All interior signs and all advertising, if rates are quoted, shall clearly state the rates of exchange for both buying and selling of dollars and shall state all commissions and fees charged on all transactions.

(c) An interior sign containing all information regarding rates of exchange and fees shall be printed in English and posted in clear view of customers at each point of exchange.

22517. It is unlawful for a money exchange house to advertise "no commission" when, in fact, a commission or fee is charged.

22518. A receipt shall be presented to each customer for each exchange, clearly stating the rate of exchange for the particular transaction, the amount of commission or fees, and the net exchange after all fees and commissions have been deducted. The receipt shall also state the total amount of currency presented by the customer and the total amount returned to the customer.

22519. A violation of this chapter is an infraction punishable by a fine of not less than one hundred dollars ($100) for the first offense, and a fine of not less than five hundred dollars ($500) for each subsequent offense.

22520. Nothing in this chapter shall be construed to limit the effect of any other provision of state law or any local ordinance governing money exchange house permit applications, permit denials, permit renewals, permit revocations, regulatory fees, regulations on advertising or signs, receipt requirements, or penalties for violations thereof.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 434

An act to amend Section 10249.4 of, and to add Section 11000.2 to, the Business and Professions Code, relating to real property, and making an appropriation therefor.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 10249.4 of the Business and Professions Code is amended to read:

10249.4. When an inspection is to be made of subdivided lands situated outside of the State of California which are to be offered for sale or lease in this state, the questionnaire shall be accompanied by the filing fee, together with an amount equivalent to twenty-five cents ($0.25) a mile for each mile going and returning, or where public transportation is available the actual round trip fare pertaining thereto, estimated by the commissioner to be traveled from the office of the Department of Real Estate where the filing is made to the location of the project, and an amount estimated to be necessary to cover the actual and necessary subsistence expenses incurred in the inspection.

SEC. 2. Section 11000.2 is added to the Business and Professions Code, to read:

11000.2. (a) A person who has made an offer to purchase an interest in an undivided-interest subdivision specified in subdivision (a) of, and not exempted by subdivision (b) of, Section 11000.1 shall have the right to rescind any contract resulting from the acceptance of that offer until midnight of the third calendar day following the day on which the prospective purchaser executed the offer to purchase.

(b) The owner of a subdivision subject to this section or his or her agent shall, in accordance with regulations adopted by the Real Estate Commissioner, clearly and conspicuously disclose to all prospective purchasers of undivided interests the right of rescission provided for in subdivision (a), and shall furnish to each offeror a form, as prescribed by regulations of the commissioner, for the exercise of the right of rescission.

(c) Any certificate bearing the signature of the purchaser of an interest in an undivided-interest subdivision subject to this section which contains an adequate description of the interest or interests sold and a statement by the purchaser that he or she has not exercised the right of rescission within the time limit set forth in

subdivision (a) shall constitute conclusive evidence that the right of rescission has not been exercised in any matter involving the rights of a third party who has acted in good faith in reliance upon representations in the certificate.

CHAPTER 435

An act to amend Section 980 of the Government Code, relating to public works contracts.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 980 of the Government Code is amended to read:

980. Whenever a request for payment from the state or a local entity pursuant to the terms of a contract for the construction of a public works project as defined in Section 1720 of the Labor Code is properly filed and the validity of the claim is not disputed or has been settled or agreed upon, payment of the claim by the disbursing officer of the state or local public entity shall include interest at the legal rate of 7 percent per annum commencing on the date upon which the claim was submitted if payment has not been made by the 60th day after the proper submission of the claim.

When the contractor's final payment is based upon a measurement by the public entity of quantities of specific portions of the work, the contractor's request for payment shall be deemed to be properly filed on the next business day after the contractor provides written notification to the public entity's designated job site representative that the contractor accepts the proposed final estimate as prepared by the public entity.

CHAPTER 436

An act to amend Section 12502 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 12502 of the Vehicle Code is amended to read:

12502. (a) The following persons may operate a motor vehicle in

this state without obtaining a license under this code:

(1) A nonresident over the age of 18 years having in his or her immediate possession a valid driver's license issued by a foreign jurisdiction of which he or she is a resident, except as provided in Section 12505.

(2) A nonresident having in his or her immediate possession a valid driver's license, issued by the Diplomatic Motor Vehicle Office of the Office of Foreign Missions of the United States Department of State, for the type of motor vehicle or combination of vehicles that the person is operating.

(b) Any person entitled to the exemption contained in subdivision (a), while operating, within this state, a commercial vehicle of a type otherwise requiring a class 1 or 2 driver's license, shall have in his or her possession a current medical certificate of a type described in subdivision (c) of Section 12804, which has been issued within two years of the date of operation of such vehicle.

(c) The department shall report to the Legislature by January 15, 1990, and by January 15 of each year thereafter, regarding the frequency of violations and reportable accidents by holders of the licenses described in paragraph (2) of subdivision (a). In preparing the report, the department shall use information, as available, from its own files, and from the Department of the California Highway Patrol, local law enforcement agencies, and the Diplomatic Motor Vehicle Office of the Office of Foreign Missions of the United States Department of State.

CHAPTER 437

An act to amend Section 7539 of the Business and Professions Code, relating to private investigators.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 7539 of the Business and Professions Code is amended to read:

7539. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or his or her representative, any information he or she may acquire as to any criminal offense, but he or she shall not divulge to any other person, except as he or she may be required by law so to do, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager or employee of a licensee shall knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of private investigator licensees, shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) No licensee, or officer, partner, qualified manager, or employee shall use any identification to indicate that he or she is licensed as a private investigator other than the official identification card issued by the bureau or the business card regularly used by the business. However, a licensee may issue an employer identification card.

(g) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof, except premises commonly accessible to the public, without the consent of the owner or of the person in legal possession thereof.

(h) No private patrol licensee, or officer, director, partner, manager, or employee of a private patrol licensee shall use or wear a badge, except while engaged in guard or patrol work and while wearing a uniform. Any person authorized to use or wear a badge shall wear a patch on each arm that reads "private security" and that includes the name of the private patrol company by which the person is employed or for which the person is a representative. The patch shall be of a standard design approved by the director and shall be clearly visible.

(i) No licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports or present bills to clients, or in any manner whatever conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

(j) No licensee, officer, director, partner, manager, or employee of a private investigator shall knowingly and directly solicit employment from any person who has directly sustained bodily injury or from that person's spouse or other family member to obtain authorization on behalf of the injured person as an investigator to investigate the accident or act which resulted in injury or death to that person or damage to the property of that person. Nothing in this subdivision shall prohibit the soliciting of employment from that injured person's attorney, insurance company, self-insured administrator, insurance adjuster, employer, or any other person

having an indirect interest in the investigation of the injury. This subdivision shall not apply to any business agent or attorney employed by a labor organization. No licensee, officer, director, partner, or manager of a private investigator shall pay or compensate any of his or her employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

(k) No licensee shall use a fictitious name in connection with the official activities of the licensee's business.

CHAPTER 438

An act to amend Sections 27322.2 and 27322.4 of the Government Code, and to amend Sections 10036, 10037, and 10038 of the Health and Safety Code, relating to vital statistics.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 27322.2 of the Government Code is amended to read:

27322.2. A system of microphotography, optical disk, or reproduction by other techniques which do not permit additions, deletions, or changes to the original document may be used by the recorder as a photographic reproduction process to record some or all instruments, papers and notices that are required or permitted by law to be recorded or filed. All film used in the microphotography process shall comply with minimum standards of quality approved by the United States Bureau of Standards. A true copy of the document shall be kept in a safe and separate place which will reasonably assure its preservation indefinitely against loss or destruction. A true copy of the document shall be arranged in a suitable place in the office of the recorder to facilitate public inspection.

SEC. 2. Section 27322.4 of the Government Code is amended to read:

27322.4. The county recorder may cause any or all files or records in his or her official custody to be microphotographed or otherwise reproduced pursuant to Section 27322.2 as in the case of original filings or recordings or both. Every reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy, as the case may be, of the original.

SEC. 3. Section 10036 of the Health and Safety Code is amended to read:

10036. Notwithstanding any other provisions of law relating to retention of public records, the State Registrar may cause the

original records of birth, death and marriage filed under this division to be destroyed if all of the following requirements have been met:

(a) The birth, death, or marriage records have been reproduced onto microfilm or optical disk or by any other techniques which do not permit additions, deletions, or changes to the original document.

(b) One year has elapsed since the date of registration of the records.

(c) Any permanent storage medium used meets the minimum standards recommended by the National Bureau of Standards for permanent record purposes.

(d) Adequate provisions are made that the permanent storage medium reflects additions or corrections to the records.

(e) A copy of the permanent storage medium is maintained in a manner which permits it to be used for all purposes served by the original record.

(f) A copy of the permanent storage medium has been stored at a separate physical location in a place and manner which will reasonably assure its preservation indefinitely against loss or destruction.

SEC. 4. Section 10037 of the Health and Safety Code is amended to read:

10037. Any certified photographic reproduction of any record stored on a permanent storage medium under the provisions of this chapter shall be deemed to be a certification of the original record.

SEC. 5. Section 10038 of the Health and Safety Code is amended to read:

10038. On and after January 1, 1978, whenever the State Registrar receives a death certificate from a local registrar, the State Registrar shall determine whether the state records contain the birth certificate of the deceased or a reproduction thereof as authorized under the provisions of this chapter. If the State Registrar has such a record of birth, it shall be revised to indicate the date of the death of the registrant, or, alternatively, a notation to such effect shall be entered in the State Registrar's index of births adjacent to the name of the deceased. The State Registrar, pursuant to an ongoing program, shall distribute, without charge, on a monthly basis to each county, a list of deceased registrants to enable local registrars and recorders to update their files. Upon receipt of such a list the local registrar or county recorder shall revise the local records or indexes accordingly.

Subject to the availability of funds appropriated for such purpose, the State Registrar may similarly revise or index birth records of registrants whose death certificates were filed prior to January 1, 1978.

CHAPTER 439

An act to add Section 4222.5 to the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 4222.5 is added to the Revenue and Taxation Code, to read:

4222.5. (a) Notwithstanding any other provision of this article, the tax collector of any county which was designated by the Governor to be in a state of disaster as the result of the fires which occurred in 1987, may defer for a period of one year payments under an installment plan if all of the following conditions are met:

(1) The installment plan was already in existence at the time deferral is requested by the assessee or the agent of the assessee.

(2) The assessee or the agent of the assessee can establish to the satisfaction of the tax collector that the assessee incurred substantial business losses of at least five thousand dollars ($5,000) in connection with his or her property as a result of the 1987 fires.

(3) The assessee or the agent of the assessee files an application for deferral with the tax collector on or before September 1, 1988.

(4) The assessee is not receiving any other disaster relief relating to the 1987 fires.

(b) This section does not preclude the assessment of interest in connection with the deferral of any installment payment. Any interest so assessed shall be due and payable together with the deferred installment payment.

(c) For purposes of this section, "substantial business losses" means net business losses incurred by the assessee after accounting for the assessee's receipt of any federal disaster aid, state disaster aid, related insurance loss claim payments, or property tax relief under Chapter 6 (commencing with Section 197) of Part 2.

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

In order that the relief provided by this act may be applicable to installment payments on tax-defaulted property for the 1988–89 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 440

An act to amend Sections 4112 and 5097.2 of, and to add Section 4143 to, the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 4112 of the Revenue and Taxation Code is amended to read:

4112. (a) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect both of the following, in addition to the amount required to redeem:

(1) A fee of thirty-five dollars ($35) which shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.

(2) A fee in the amount required by Section 27361.3 of the Government Code which shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).

(b) Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

(c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge, and after recordation shall be forwarded to the Controller.

(c) Any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be subject to the requirements of Section 54986 of the Government Code.

SEC. 2. Section 4143 is added to the Revenue and Taxation Code, to read:

4143. (a) Notwithstanding any other provision of law, in the case of a deficiency in the payment of taxes due and payable pursuant to this part, the tax collector, with the approval of the board of supervisors, may accept partial payments from the taxpayer. The partial payments shall be applied first to all penalties, interest, and

costs, and the balance, if any, shall be applied to the taxes due. The difference between the amount paid by the taxpayer and the amount due shall be treated as a delinquent tax in the same manner as any other defaulted tax.

(b) Partial payments made pursuant to this section shall not be deemed a redemption, a partial redemption, or an installment payment under this part and they shall not alter either the date upon which the property became tax defaulted or the date the property becomes subject to a power of sale.

(c) These partial payments shall not be construed as altering the amount of defaulted taxes for purposes of publications.

(d) An election may be made by the taxpayer to pay the delinquent taxes in installments under Chapter 3 (commencing with Section 4186) and, if so, the installment payment shall be based upon the balance of the redemption amount determined pursuant to this section.

(e) When the taxpayer requests a partial payment, or when the tax collector receives such a payment, the tax collector shall inform the taxpayer of the provisions of subdivision (b) by return mail.

SEC. 3. Section 5097.2 of the Revenue and Taxation Code is amended to read:

5097.2. Notwithstanding Sections 5096 and 5097, any taxes paid before or after delinquency may be refunded by the county tax collector or the county auditor, within four years after the date of payment, if:

(a) Paid more than once.

(b) The amount paid exceeds the amount due on the property as shown on the roll.

(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations ordered by the board of supervisors after such taxes were paid.

(d) In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than ten dollars ($10), with the written consent of the district attorney.

(e) The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

CHAPTER 441

An act to amend Section 1985.4 of the Code of Civil Procedure, relating to government records.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1985.4 of the Code of Civil Procedure is amended to read:

1985.4. The procedures set forth in Section 1985.3 are applicable to a subpoena duces tecum for records containing "personal information," as defined in Section 1798.3 of the Civil Code which are otherwise exempt from public disclosure under Section 6254 of the Government Code which are maintained by a state or local agency as defined in Section 6252 of the Government Code. For the purposes of this section, "witness" means a state or local agency as defined in Section 6252 of the Government Code and "consumer" means any employee of any state or local agency as defined in Section 6252 of the Government Code, or any other natural person. Nothing in this section shall pertain to personnel records as defined in Section 832.8 of the Penal Code.

CHAPTER 442

An act to amend Section 90002 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 90002 of the Government Code is amended to read:

90002. (a) Audits and investigations of lobbying firms and lobbyist employers shall be performed on an annual basis and shall cover reports filed during a period of one year.

(b) If a lobbying firm or lobbyist employer keeps a separate account for all receipts and payments for which reporting is required by this chapter, the requirement of an audit under subdivision (a) of Section 90001 shall be satisfied by an audit of that account and the supporting documentation required to be maintained by Section 86110.

(c) No audit or investigation of any candidate, controlled committee, or committee primarily supporting or opposing a

candidate or a measure in connection with a report or statement required by Chapter 4 of this title, shall begin until after the last date for filing the first report or statement following the general, runoff or special election for the office for which the candidate ran, or following the election at which the measure was adopted or defeated, except that audits and investigations of statewide candidates, their controlled committees, and committees primarily supporting or opposing those statewide candidates who were defeated in the primary election and who are not required to file statements for the general election may begin after the last date for filing the first report or statement following the primary election. When the campaign statements or reports of a candidate, controlled committee, or a committee primarily supporting or opposing a candidate are audited and investigated pursuant to Section 90001, the audit and investigation shall cover all campaign statements and reports filed for the primary and general or special or runoff elections and any previous campaign statement or report filed pursuant to Section 84200 or 84200.5 since the last election for that office, but shall exclude any statements or reports which have previously been audited pursuant to Section 90001 or 90003. When the campaign statements or reports of a committee primarily supporting or opposing a measure are audited and investigated, the audit and investigation shall cover all campaign statements and reports from the beginning date of the first campaign statement filed by the committee in connection with the measure. For all other committees, the audit and investigation shall cover all campaign statements filed during the previous two calendar years.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 443

An act to amend Section 116.4 of, and to add Section 117.42 to, the Code of Civil Procedure, relating to small claims court.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 116.4 of the Code of Civil Procedure is amended to read:

116.4. (a) An action shall be commenced by the plaintiff's filing, in person or by mail with the judge or clerk of the small claims division, a claim under oath setting forth: the name and address of the defendant; the amount and the basis of the claim; and that the

plaintiff has demanded payment and, in applicable cases, the possession of the property; that the defendant has failed or refused to pay, and where applicable, has refused to surrender the premises; and that the plaintiff understands that the judgment on his or her claim will be conclusive without right of appeal by him or her.

(b) The judge or clerk shall thereupon do either of the following:

(1) The judge or clerk shall (i) sign an order directing a defendant who resides within the county in which the action is filed, to appear on a hearing date not more than 40 days nor less than 10 days from the date of the order or, if the defendant resides outside of the county in which the action is filed, to appear on a hearing date not more than 70 days nor less than 30 days from the date of the order, (ii) cause a copy of the claim and order to be mailed to the defendant by any form of mail providing for a return receipt, or cause a copy to be delivered to defendant in person, and (iii) inform the plaintiff of a specified hearing date and direct him or her to appear on that date with witnesses and documents to prove his or her claim.

(2) The judge or clerk shall (i) cause a copy of any claim to be mailed to the defendant by any form of mail providing for a return receipt or cause a copy to be delivered to defendant in person, (ii) upon proof of service in accordance with subparagraph (i), sign an order setting a hearing date for a defendant who resides within the county in which the action is filed of not more than 40 days nor less than 10 days from the date of receipt of proof of service or, if the defendant resides outside of the county in which the action is filed, a hearing date of not more than 70 days nor less than 30 days from the date of receipt of service, (iii) cause a copy of the order setting the hearing date and directing the defendant to appear on such date to be served upon the defendant as provided in subparagraph (i), and (iv) cause a copy of the order setting the hearing date and directing the plaintiff to appear on such date with witnesses and documents to prove his or her claim to be served upon the plaintiff as provided in subparagraph (i).

Service by such methods shall be deemed complete on the date of personal service, or on the date that the defendant signs the mail return receipt, or upon the presentation of other competent evidence to the court, whichever is applicable. Service of a copy of the claim and order may also be made and shall be complete, as provided in subdivision (a) or (b) of Section 415.20, without requirement for attempted service by either of the methods above provided, and shall be complete as provided in Section 415.20. Except for personal service upon the owner of record of real property in California, who resides in another state and who has no lawfully designated agent in California for service of process, of a complaint relative to that real property, service to be valid must be made within this state. If, in the case of paragraph (1) of this subdivision, the service of the claim and order upon the defendant is not completed at least five days prior to the hearing date where the defendant resides within the county in which the action is brought, or at least

15 days prior to the hearing date where the defendant resides outside the county in which the action is brought, unless the defendant personally appears and does not request a continuance, the court shall continue the date for the hearing for at least 10 days, and shall cause notice thereof by first-class mail to be served on any defendant who has been served but did not personally appear.

SEC. 2. Section 117.42 is added to the Code of Civil Procedure, to read:

117.42. A nonresident owner of real property may waive personal appearance and submit written declarations to serve as evidence supporting the party's defense, or allow another person (other than an attorney at law) to appear on the defendant's behalf. A person representing a defendant pursuant to this section shall file an affidavit stating that the person is serving without compensation.

CHAPTER 444

An act to add Article 1.2 (commencing with Section 26625) to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Article 1.2 (commencing with Section 26625) is added to Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, to read:

Article 1.2. Contra Costa County Marshal/Sheriff Consolidation

26625. (a) This article shall be known and may be cited as the Contra Costa County Court Services Consolidation Act of 1988.

(b) Notwithstanding any other provision of law, the Board of Supervisors of Contra Costa County may find, after holding a public hearing on the issue, that cost savings can be realized by consolidation of court-related services provided by the marshal and sheriff within that county. If such a finding is made, there shall be conducted among all of the judges of the superior and municipal courts of that county an election to determine the agency, either the marshal or sheriff, under which court-related services shall be consolidated. The outcome shall be determined by a simple majority of votes cast, provided that the total number of votes cast exceeds 50 percent of the number of superior and municipal judges in the county, by at least one vote. The registrar of voters shall administer that election and tabulate the results thereof. The results of the

election shall be reported within 15 days following the election period by the registrar of voters to the board of supervisors and to the judges of the superior and municipal courts of that county.

The board of supervisors shall immediately commence and, within a reasonable time not to exceed 90 days, implement the determination made by a majority of the judges of the superior and municipal courts of that county in that election. If an election is not conducted within 90 days of notification of the board of supervisors' finding, or if the results of the election are evenly divided, the board of supervisors of that county shall determine under which agency, either the marshal or the sheriff, court-related services shall be consolidated, and shall proceed to implement that consolidation as if on the basis of majority vote of the judges of the superior and municipal courts of that county.

26625.1. Sections 26625.2 to 26625.10, inclusive, shall become operative only if the sheriff is selected as the agency under which court-related services shall be consolidated, in which case those sections shall become operative upon the vote of the judges of the county so selecting the sheriff.

26625.2. There is a court services division within the Contra Costa County Sheriff's Department to serve the superior and municipal courts. The relationship between the sheriff's department and the court services division shall be similar to that which exists between the Sheriff's Department of Contra Costa County and certain cities in the county that contract for police services. The court services division shall maintain a branch office in each municipal court district with the exception of the Walnut Creek-Danville Judicial District.

26625.3. There is a Court Services Oversight Committee consisting of three municipal court judges and two superior court judges in even-numbered years and three superior court judges and two municipal court judges in odd-numbered years elected annually by a majority of their respective benches. The duties of the committee shall be those prescribed by this article, and include, but are not limited to, the following:

(a) To approve all transfers out of and into the court services division.

(b) To approve staffing levels and the recommended budget prior to submission to the board of supervisors.

(c) To approve security measures and plans prepared by the sheriff, through the assistant sheriff, court services division.

(d) Notwithstanding any other provisions of law, the sheriff through the assistant sheriff, court services division, shall provide bailiffing, court security, and prisoner holding in the Superior Court and Municipal Courts of Contra Costa County, processing and service of civil and criminal process, including subpoenas and warrants, extraditions, and such investigations and other services as directed by any court.

26625.4. (a) The sheriff shall be the appointing authority for all

court services division positions and employees.

(b) The incumbent marshal of the Contra Costa County Municipal Court shall become the assistant sheriff (exempt) of the court services division upon the operative date of this section and may not be removed except by a four-fifths majority vote of the Court Services Oversight Committee. He or she shall hold the permanent rank of captain in the merit system. Whenever the salary of assistant sheriff is adjusted by the board of supervisors, the salary of assistant sheriff, court services division, shall be adjusted in the same amount with the same effective date.

(c) Selection, appointment, and removal of subsequent assistant sheriffs of the court services division shall be made by a majority vote of the Superior Court Judges of Contra Costa County and by a majority vote of the Municipal Court Judges of Contra Costa County from a list of qualified candidates submitted by the sheriff.

(d) The two incumbent assistant marshals in the marshal's office shall become marshals, court services division, in the sheriff's department and assigned to the division of court services upon the operative date of this section and may not be removed except by a four-fifths majority vote of the Court Services Oversight Committee. They shall be allocated to a salary level which is 67 levels on the C5 salary schedule above that of lieutenant in the service of Contra Costa County. Whenever the salary of lieutenant is adjusted by the board of supervisors, the salary of these two individuals shall be adjusted in the same percentage or levels with the same effective date.

26625.5. (a) All personnel of the marshal's office who are assigned to court services on the operative date of this section shall become members of the court services division at their existing salaries and benefits. Permanent employees presently holding the rank of deputy or sergeant, respectively, in the marshal's office shall become deputy sheriffs or sheriff's sergeants upon the operative date of this section.

(b) Sworn personnel described in subdivision (a) may be transferred to another position in the sheriff's office at the same or an equivalent classification, but shall not be involuntarily transferred out of court services.

(c) Permanent employees of the sheriff's office assigned to court services on the operative date of this section and permanent employees of the marshal's office on the operative date of this section shall be deemed qualified for employment and retention in the Sheriff's Department of Contra Costa County. Probationary employees of the sheriff's department assigned to court services on the operative date of this section and probationary employees of the marshal's office on the operative date of this section shall retain their probationary status and rights, and shall not be required to start a new probationary period.

(d) For personnel of the sheriff's office assigned to court services on the operative date of this section and personnel of the marshal's

office on the operative date of this section, all county service shall be counted toward county seniority, and all time spent in the same classification, and all time spent in the equivalent or higher classification shall be counted toward classification seniority. All county seniority shall be credited as departmental seniority. For layoff and displacement purposes all covered service in the sheriff's department and marshal's office shall be counted equally, and the County's Personnel Management Regulations and other governing county ordinances and resolutions shall determine the class, county, and departmental seniority dates, the seniority and layoff order, and displacement rights of all employees.

(e) No employee of the sheriff's office assigned to court services on the operative date of this section or employee of the marshal's office on the operative date of this section shall lose peace officer status or be demoted or otherwise adversely affected by the consolidation of court services accomplished by this section. Peace Officer Standards and Training certificates held on the operative date of this section by employees of the Marshal's Department of Contra Costa County and the Sheriff's Department of Contra Costa County shall be considered the same for purposes of this section.

26625.6. (a) Notwithstanding any other provision of this article, the sheriff through the assistant sheriff, court services division, shall make all transfers within the court services division consistent with existing personnel policies of the sheriff, memoranda of understanding, if any, and other county personnel management rules and regulations.

(b) A deputy marshal or deputy marshal sergeant on the operative date of this section who transfers out of the court services division to another division of the sheriff's office and subsequently fails to meet the employment standards of the other division may be transferred back to the court services division at the sole discretion of the sheriff.

26625.7. An employee of the sheriff's office who desires to transfer into the office of court services shall make application through the appropriate division to the assistant sheriff, court services division. That employee, if approved by the Court Services Oversight Committee for transfer to the court services division, shall execute an agreement to serve in court services for a minimum term of three years.

26625.8. Since the sheriff's department previously required each of its deputies to serve on its jail detention staff, and a deputy was permitted to credit time spent as a superior court bailiff prior to January 5, 1987, in lieu of all or part of this jail requirement, employees of the marshal's office on the operative date of this section shall be required to serve on the jail staff only if they transfer out of the court services division. In addition, those employees shall receive day-for-day credit on the jail requirement for time spent prior to the operative date of this section in bailiff-related services in the municipal court to the same extent as sheriff's deputies receive such

credit for time spent in bailiff-related sevices in the superior court. The purpose of this section is to provide equality of treatment for those who have provided equivalent service in the municipal and superior courts.

26625.9. All sworn permanent employees subsequently assigned to the court services division shall be required to meet those requirements of the California Commission on Peace Officer Standards and Training imposed on all marshal's departments in California.

26625.10. The marshal's office is abolished.

26625.11. Sections 26625.12 to 26625.15, inclusive, shall become operative only if the marshal is selected as the agency under which court-related services shall be consolidated, in which case those sections shall become operative upon the vote of the judges of the county so selecting the marshal.

26625.12. Deputy sheriffs who become members of the consolidated office shall do so at their existing or equivalent classifications, salaries, and benefits, and except as may be necessary for the operation of the agency under which court-related services are consolidated, shall not be involuntarily transferred out of the consolidated court-related services office.

26625.13. Permanent employees of the sheriff's department on the operative date of the consolidation shall be deemed qualified, and no other qualifications shall be required for employment or retention. Probationary employees of the sheriff's department on the operative date of the consolidation shall retain their probationary status and rights, and shall not be deemed to have transferred so as to require serving a new probationary period.

26625.14. All county service or service in the sheriff's department of employees of the sheriff's department on the operative date of the consolidation shall be counted toward seniority in the court-related services office, and all time spent in the same, equivalent, or higher classification shall be counted toward classification seniority.

26625.15. No employee of the sheriff's department on the operative date of the consolidation shall lose peace officer status, or be demoted or otherwise adversely affected by a consolidation of court services under this section.

SEC. 2. The provisions of this act are necessary because the County of Contra Costa is the only county where the judges of the municipal court and the superior court, the members of the board of supervisors, the sheriff, and the marshal have all accepted the terms of consolidation of the offices of marshal and sheriff. It is hereby declared that a general law cannot be made applicable because the County of Contra Costa is the only county where all the parties of interest have agreed to a consolidation, and the county needs legislative authorization to implement consolidation of these offices. Accordingly, it is necessary that this special act be adopted.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this

act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

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

In order to provide cost-effective court services in Contra Costa County, it is necessary that this act take effect immediately.

CHAPTER 445

An act to amend Section 15088 of the Health and Safety Code, relating to health facilities, and making an appropriation therefor.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 15088 of the Health and Safety Code is amended to read:

15088. Members of the board shall be reimbursed from the Hospital Building Account in the Architecture Public Building Fund for their reasonable actual expenses in attending meetings conducted to carry out the provisions of this chapter, and they shall receive from that account per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties where attendance at one or more publicly scheduled meetings or hearings of the board is required by the board's chairperson. However, they shall receive no other compensation from that account for their services.

CHAPTER 446

An act to amend Section 26593 of the Health and Safety Code, relating to health.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 26593 of the Health and Safety Code is amended to read:

26593. (a) No person shall operate a water-bottling plant, operate a private water source, or be a water hauler in this state

except pursuant to a license issued by the department. If a person has a valid water-bottling plant license issued by the department, additional licenses for a private water source operator, or for a retail water treatment plant, or for a water hauler based and operating at the same address, or for an out-of-state bottled water distributor shall not be required.

(b) No person shall own or operate a water vending machine or a retail water treatment plant except pursuant to a license issued by the department or to a permit issued by a local health department.

CHAPTER 447

An act to add Section 6254.9 to the Government Code, relating to public records.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 6254.9 is added to the Government Code, to read:

6254.9. (a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

CHAPTER 448

An act to amend Section 35297 of the Education Code, relating to education.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 35297 of the Education Code is amended to read:

35297. The earthquake emergency procedure system shall include, but not be limited to, all of the following:

(a) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs.

(b) A drop procedure. As used in this article, "drop procedure" means an activity whereby each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows. A drop procedure practice shall be held at least once each school quarter in elementary schools and at least once a semester in secondary schools.

(c) Protective measures to be taken before, during, and following an earthquake.

(d) A program to ensure that the students and that both the certificated and classified staff are aware of, and properly trained in, the earthquake emergency procedure system.

CHAPTER 449

An act to amend Section 56242 of the Education Code, relating to special education.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 56242 of the Education Code is amended to read:

56242. (a) A district, special education local plan area, or county office shall receive its full average daily attendance apportionment during the regular school year to conduct staff development programs pursuant to this article. Except as provided in subdivision (b), the time shall not exceed two days each year for each participating staff member. However, no district, special education local plan area, or county office shall receive average daily attendance reimbursement under this section if it is reimbursed

pursuant to Chapter 1147 of the Statutes of 1972, Chapter 3.1 (commencing with Section 44670) of Part 25, or Chapter 6 (commencing with Section 52000) of Part 28.

(b) Whenever a school operates a school-based coordinated program pursuant to Chapter 12 (commencing with Section 52800) of Part 28 and that program includes special education programs and services, staff members teaching in special classes and centers may receive the same number of staff development days as other staff members are receiving at that schoolsite.

CHAPTER 450

An act to amend Sections 4004 and 4006 of the Fish and Game Code, relating to trapping.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 4004 of the Fish and Game Code is amended to read:

4004. It is unlawful to do any of the following:

(a) Use a trap with saw-toothed or spiked jaws.

(b) Use or sell leg-hold steel-jawed traps with a spread of 5½ inches or larger without offset jaws.

(c) Use steel-jawed traps larger than size 1½ or with a spread larger than 4⅞ inches for taking muskrat.

(d) Set or maintain traps which do not bear a number or other identifying mark registered to the department or, in the case of a federal, state, county, or city agency, bear the name of that agency. No registration fee shall be charged pursuant to this subdivision.

(e) Fail to visit and remove all animals from traps once daily. This subdivision does not apply to trapping done under Section 4152 or 4180.

(f) Use a steel leg-hold trap with a spread exceeding 7½ inches or killer-type trap of the conibear type that is larger than 10 inches by 10 inches.

(g) Set or maintain steel leg-hold traps within 30 feet of bait placed in a manner or position so that it may be seen by any soaring bird. As used in this subdivision, "bait" includes any bait composed of mammal, bird, or fish flesh, fur, hide, entrails, or feathers.

(h) Set or maintain steel leg-hold traps with a spread of 5½ inches or larger without a tension device.

SEC. 2. Section 4006 of the Fish and Game Code is amended to read:

4006. A trapping license shall be issued as follows:

(a) To any resident of this state over the age of 16 years upon

payment of a base fee of forty-five dollars ($45), as adjusted under Section 713.

(b) To any resident of this state under the age of 16 years upon payment of a base fee of fifteen dollars ($15), as adjusted under Section 713.

(c) To any person not a resident of this state upon payment of a base fee of two hundred twenty-five dollars ($225), as adjusted under Section 713.

A license shall not be issued to a nonresident if the state in which he or she resides does not provide for issuance of a nonresident trapping license to California residents. Also, a nonresident issued a license under this subdivision may take only those species, and may take or possess only that quantity of a species which a resident of California may take or possess under a nonresident trapping license or permit in the state of residence of that nonresident.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 451

An act to add Section 5015.5 to the Public Resources Code, relating to the Kenneth Hahn State Recreation Area.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 5015.5 is added to the Public Resources Code, to read.

5015.5. The Baldwin Hills State Recreation Area is hereby designated and shall be known as the Kenneth Hahn State Recreation Area.

The department shall erect appropriate signs to reflect the designations made by this section and shall cause all directories and other publications concerning the state park system to reflect the designations as the publications are periodically revised.

CHAPTER 452

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

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 5408.5 of the Business and Professions Code is amended to read:

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

(a) The advertising display may not be within 660 feet of and visible from any federal-aid interstate or primary rural highway, and any advertising display within 660 feet of and visible from any urban highway shall be consistent with federal law and regulations.

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

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

(d) Bus passenger shelters or benches with advertising displays may only be placed in accordance with a permit or agreement with the public entity having operational authority over the highway adjacent to where, or upon which, the advertising display is to be placed.

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

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

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

CHAPTER 453

An act to amend Section 171b of the Penal Code, relating to dangerous weapons.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 171b of the Penal Code is amended to read:

171b. Any person, except a person who possesses or transports weapons to be used as evidence in a court of law, a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any such officer to assist in making arrests or preserving the peace while he or she is actually engaged in assisting such officer, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or a person holding a valid tear gas weapon card pursuant to Section 12403.7 allowing that person to carry the tear gas, who brings or possesses, within any courtroom or building designated as a courthouse or court building in this state or at any meeting required to be open to the public pursuant to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 or Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, any firearm, deadly weapon described in Section 12020 or 653k, knife with a blade length in excess of four inches, the blade of which is fixed or is capable of being fixed in an unguarded position by the use of one or two hands, tear gas weapons, as defined in Sections 12401 and 12402, tasers, or stun guns, as defined in Section 244.5, unless permission to possess that weapon is granted in writing by a duly authorized official or officials, is guilty of a public offense punishable by imprisonment in the county jail for not more than one year, or in the state prison.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 454

An act to amend Sections 270.03, 270.101, 270.103, 270.28, 270.35, 270.42, 987.53, 987.601, 987.603, 987.78, 987.85, and 987.93 of the Military and Veterans Code, relating to farm and home purchases.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 270.03 of the Military and Veterans Code is amended to read:

270.03. As used in this article:

(a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficiently to provide a living for the purchaser and his or her dependents.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and such other buildings as will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode. It includes a "condominium," as defined in subdivision (h). "Home" also includes a "mobilehome," as defined in subdivision (k).

(c) "Purchaser" means a member of the California National Guard or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) "Progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) "Condominium" means an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and the purchaser's dependents as a place of abode. A condominium may include, in addition, a separate interest in other portions of the real property. "Condominium" also includes a half-duplex and a patio home when the structure is situated on its own property line.

(i) "Effective rate of interest" means the average rate of interest on the unpaid balance due on a participation contract to which the department's legal rights are subject, and the rate of interest on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) "Mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules which will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode and meets all requirements of local governmental jurisdictions. However, where the mobilehome module or modules are sited on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Member" means an individual on active National Guard status and assigned to a federally recognized unit of the California National Guard.

(m) "Indian member" means a member as defined in subdivision (*l*) who in addition either belongs to an Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs or is an Indian beneficiary and who is eligible under this article for purchase by the department of a home or farm sited on trust land

(n) "Trust land," with respect to an Indian member, means land held in trust by the United States government for individual Indians, Indians who belong to Indian tribes, or Indian tribes.

(o) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(p) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(q) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs.

(r) "Indian beneficiary" means an Indian for whom land is held in trust by the United States government.

SEC. 2. Section 270.101 of the Military and Veterans Code is amended to read:

270.101. (a) For purposes of the construction of a dwelling house or other improvements for a farm or home or the acquisition of a farm or home for an Indian member pursuant to this article, references to property or real property include the Indian member's beneficial interest in trust land held by the United States for that member and a leasehold interest acquired by the Indian member

from an Indian beneficiary when the Indian member is not a beneficiary of trust land; references to the purchase or acquisition of property or real property include the assignment of an Indian member's beneficial interest in trust land held by the United States for that member and a leasehold interest in trust land acquired by the Indian member from an Indian beneficiary; references to the sale of property or real property include the assignment of an Indian member's beneficial interest in trust land held by the United States for that member and a leasehold interest in trust land acquired by the Indian member from an Indian beneficiary; and references to purchaser, seller, purchase price, and selling price refer to the acquisition or sale of a home situated or constructed upon or a farm comprising an assignment of an Indian member's beneficial interest in trust land held by the United States for that member or a leasehold interest in trust land acquired by the Indian member from an Indian beneficiary.

(b) Subject to the conditions and limitations specified in Section 270.103, the department may acquire an Indian member's leasehold interest in allotment trust land, or a sufficient portion of the leasehold interest necessary to secure the loan, as determined by the department and the Bureau of Indian Affairs, for the purpose of entering into a contract with the Indian member for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land.

(c) Subject to the conditions and limitations specified in Section 270.103, the department may acquire an assignment of an Indian member's beneficial interest in trust land held by the United States for that member, or a sufficient portion of the beneficial interest necessary to secure the loan, as determined by the department and the Bureau of Indian Affairs, for the purpose of entering into a contract for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase of a mobilehome on trust land assigned to the department by the Indian member beneficiary.

(d) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the person or persons for whom the land is held in trust for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years. The lease shall be in a form acceptable to the department and to the United States Secretary of the Interior. The Indian member shall satisfy the department that the department and its assignees will have access to the property for the term of the lease. The Indian member shall assign the lease to the department without cost and shall obtain the consent of the United States Secretary of the Interior to that assignment.

(e) For purposes of this section, the beneficial interest to be assigned by the Indian member shall be assigned to the department as security for a contract entered into pursuant to this article. The

assignment shall be in a form acceptable to the department and to the United States Secretary of the Interior. The Indian beneficiary member shall satisfy the department that the department and its assignees will have access to the property for the term of the assignment. The beneficial interest of the Indian beneficiary member shall be assigned at no cost to the department and with the consent of the United States Secretary of the Interior.

SEC. 3. Section 270.103 of the Military and Veterans Code is amended to read:

270.103. (a) The department may acquire an assignment of an Indian member's beneficial interest in trust land held by the United States for that member or a leasehold interest in trust land acquired by the Indian member from an Indian beneficiary and contract with an Indian member as provided in Sections 270.101 and 270.102 upon the terms agreed, if all of the following conditions are met:

(1) The department is satisfied of the desirability of the property submitted.

(2) The Indian member has agreed with the department that the Indian member or the Indian member's immediate family will actually reside on the property within 60 days from the date of the acquisition by the department or, if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(3) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed forty-three thousand dollars ($43,000) or, for members who qualify under subdivision (d) of Section 270.05, not to exceed fifty-five thousand dollars ($55,000).

(4) The Indian member has paid a reasonable fee set by the department to cover the cost of preliminary service of the department that may be necessary to process the application.

(5) The Indian member has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements in accordance with the plans and specifications within eight months after the assignment of the Indian member's beneficial interest or acquisition of the Indian member's leasehold interest in the real property by the department, and a bond, which is executed by a surety company authorized to do business in the State of California, obtained by the contractor providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job.

(6) The plans, specifications, contract, and bond are approved by the department.

(7) The Indian member has placed in escrow all sums of money to be advanced by the Indian member where the cost is in excess of

the maximum that may be expended by the department.

(b) As used in this section, "immediate family" includes only the member's spouse; children, either natural or adoptive; and the parents, if they are dependent upon the member for 50 percent or more of their support.

SEC. 4. Section 270.28 of the Military and Veterans Code is amended to read:

270.28. (a) In the event of a forfeiture of a contract of purchase under this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to any person and upon any terms and conditions as it deems proper.

(b) Where the department elects in the event of a forfeiture to sell or otherwise dispose of an assignment of an Indian member's beneficial interest or of a leasehold interest in allotment trust land, the department shall first offer it for sale to the person or persons for whom the land is held in trust, including an Indian member having a beneficial interest in the land on which the forefeiture occurred, at a price equal to the unpaid balance of the contract price. If none of the persons for whom the land is held in trust accepts the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(c) Where the department elects in the event of forfeiture to sell or otherwise dispose of a leasehold interest in tribal trust land, the department shall first offer it for sale to the tribe for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If the tribe fails to accept the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(d) Where all the parties to whom the department is required to offer the property under subdivision (b) or (c) fail to accept the offer, the department may sell or otherwise dispose of the property covered by the forfeited contract as provided by subdivision (a) and, so doing, the department shall give first preference to any good faith offer by a person approved by the tribal council of the reservation, rancheria, or land held under the jurisdiction of that particular tribal governing body on which the allotment land is sited.

(e) If the property is subject to a participation contract, the department may, at its option, pay the balance due upon the participation contract, including accrued interest, without penalty.

SEC. 5. Section 270.35 of the Military and Veterans Code is amended to read:

270.35. The department shall not acquire a home in which the member has an interest of record except in the following instances:

(a) Where the application is for aid for the construction of a home upon unimproved real property owned by the applicant.

(b) Where the member had no interest of record in the property at the time of filing his or her application and thereafter secured interim financing pending the processing and approval of the application by the department.

(c) Where the application is to pay the balance due on an existing loan not insured or guaranteed by the federal government, and which bears an interest rate of more than 2 percent higher than the prevailing rate pursuant to this article.

(d) Where the application is for purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant.

(e) Where the applicant is an Indian member and the application is for the construction of a dwelling house or other improvements on, or for the purchase of a mobilehome to be situated on, trust land in which the Indian member has a beneficial interest or owns an interest of record.

SEC. 6. Section 270.42 of the Military and Veterans Code is amended to read:

270.42. On or before January 1, 1982, and on or before January 1 of every even-numbered year thereafter, the department shall report to the Legislature on all of the following:

(a) The number of leasehold interests acquired on trust land and the number of Indian members' beneficial interests assigned to the department.

(b) The forfeiture rate on loans secured by leasehold interests on trust land or assignments of an Indian member's beneficial interest.

(c) The disposition of forfeited leasehold interests on trust land and assignments of an Indian member's beneficial interest.

SEC. 7. Section 987.53 of the Military and Veterans Code is amended to read:

987.53. As used in this article:

(a) "Farm" means a tract of land, which, in the opinion of the department, is capable of producing sufficient income to provide payment of the amortized contract installments, including principal, interest, and taxes.

(b) "Home" means a parcel of real estate upon which there is a dwelling house and other buildings that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode. "Home" includes a "condominium," as defined in subdivision (h). "Home" also includes a "mobilehome," as defined in subdivision (k).

(c) "Purchaser" means a veteran or any person who has entered into a contract of purchase of a farm or home from the department.

(d) "Purchase price" means the price which the department pays for any farm or home.

(e) "Selling price" means the price for which the department sells any farm or home.

(f) "Initial payment" means the first payment to be made by a purchaser to the department for a farm or home.

(g) "Progress payment plan" means payment by the department for improvements on real property in installments as work progresses.

(h) "Condominium" means an estate in real property consisting

of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential building on the real property, such as an apartment, which, in the opinion of the department, suits the needs of the purchaser and the purchaser's dependents as a place of abode. A condominium may include, in addition, a separate interest in other portions of the real property.

(i) "Effective rate of interest" means the average rate of interest on the unpaid balance due on a participation contract to which the department's legal rights are subject, and the rate of interest on the unpaid balance of the purchase price, as determined by the department.

(j) "Participation contract" means an obligation secured by a deed of trust or mortgage, or other security interest established pursuant to regulations of the department.

(k) "Mobilehome" means either a parcel of real estate, or an undivided interest in common in a portion of a parcel of real property, on which is sited one or more mobilehome modules, or a site in a mobilehome park, as defined in Section 18214 of the Health and Safety Code, on which one or more mobilehome modules is sited or is to be sited that will, in the opinion of the department, suit the needs of the purchaser and the purchaser's dependents as a place of abode and meets all requirements of local governmental jurisdictions. However, where the mobilehome module or modules are sited on trust land, "local governmental jurisdictions" means the tribal governing body.

For purposes of this subdivision, "module" means a section of a mobilehome at least 10 feet wide and at least 40 feet long.

(*l*) "Indian veteran" means a veteran, as defined in Section 980, who, in addition, either belongs to an Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States as eligible for services from the United States Bureau of Indian Affairs or is an Indian beneficiary and who is eligible under this article for purchase by the department of a home or farm sited on trust land.

(m) "Trust land," with respect to an Indian veteran, means land held in trust by the United States government for individual Indians, Indians who belong to Indian tribes, or Indian tribes.

(n) "Allotment trust land" means land held by the United States under the Indian General Allotment Act of 1887, as amended, (Chapter 9 (commencing with Section 331) of Title 25 of the United States Code), in trust for an individual Indian or for two or more Indians holding individual interests in common. It includes both trust and restricted public domain allotments and allotments within the boundaries of an Indian reservation.

(o) "Tribal trust land" means land held in trust by the United States for an Indian tribe or band.

(p) "Tribe" means any Indian tribe, band, group, reservation, rancheria, or community which is recognized by the United States

as eligible for services from the United States Bureau of Indian Affairs.

(q) "Immediate family" means the spouse of a purchaser, the natural or adopted dependent children of the purchaser, and the parents of the purchaser if they are dependent on the purchaser for 50 percent or more of their support.

(r) "Indian beneficiary" means an Indian for whom land is held in trust by the United States government.

SEC. 8. Section 987.601 of the Military and Veterans Code is amended to read:

987.601. (a) For purposes of the construction of a dwelling house or other improvements for a farm or home or the acquisition of a farm or home for an Indian veteran pursuant to this article, references to property or real property include the Indian veteran's beneficial interest in trust land held by the United States for that veteran and a leasehold interest acquired by the Indian veteran from an Indian beneficiary when the Indian veteran is not a beneficiary of trust land; references to the purchase or acquisition of property or real property include the assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran and a leasehold interest in trust land acquired by an Indian veteran from an Indian beneficiary; references to the sale of property or real property include the assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran and a leasehold interest in trust land acquired by the Indian member from an Indian beneficiary; and references to purchaser, seller, purchase price, and selling price refer to the acquisition or sale of a home situated or constructed upon or a farm comprising an assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran or a leasehold interest in trust land acquired by the Indian veteran from an Indian beneficiary.

(b) Subject to the conditions and limitations specified in Section 987.603, the department may acquire an Indian veteran's leasehold interest in allotment trust land, or a sufficient portion of the leasehold interest necessary to secure the loan, as determined by the department and the Bureau of Indian Affairs, for the purpose of entering into a contract with the Indian veteran for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for the purchase and installation of a mobilehome on the leasehold land.

(c) Subject to the conditions and limitations specified in Section 987.603, the department may acquire an assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran, or a sufficient portion of the beneficial interest necessary to secure the loan, as determined by the department and the Bureau of Indian Affairs, for the purpose of entering into a contract for the acquisition of a farm or home or for the construction of a dwelling house or other improvements for a farm or home or for

the purchase of a mobilehome on trust land assigned to the department by the Indian veteran beneficiary.

(d) For purposes of this section, the leasehold interest to be acquired by the department shall have been granted by the person or persons for whom the land is held in trust for a term of at least 25 years renewable without notice on the same terms and conditions for an additional period of at least 25 years. The lease shall be in a form acceptable to the department and to the United States Secretary of the Interior. The Indian veteran shall satisfy the department that it and its assignees will have access to the property for the term of the lease. The Indian veteran shall assign the lease to the department without cost and shall obtain the consent of the United States Secretary of the Interior to that assignment.

(e) For purposes of this section, the beneficial interest to be assigned by the Indian veteran shall be assigned as security for a contract entered into pursuant to this article. The assignment shall be in a form acceptable to the department and to the United States Secretary of the Interior. The Indian beneficiary veteran shall satisfy the department that the department and its assignees will have access to the property for the term of the assignment. The beneficial interest of the Indian beneficiary veteran shall be assigned at no cost to the department and with the consent of the United States Secretary of the Interior.

SEC. 9. Section 987.603 of the Military and Veterans Code is amended to read:

987.603. The department may acquire an assignment of an Indian veteran's beneficial interest in trust land held by the United States for that veteran or a leasehold interest in trust land acquired by the Indian veteran from an Indian beneficiary and contract with an Indian veteran as provided in Sections 987.601 and 987.602 upon the terms agreed if all of the following conditions are met:

(a) The department is satisfied of the desirability of the property submitted.

(b) The Indian veteran has agreed with the department that the veteran, or members of the veteran's immediate family, will actually reside on the property within 60 days from the date of acquisition by the department, or if the residence on the property is not complete on the date of acquisition, within 60 days after the residence is completed.

(c) The sum to be expended by the department pursuant to a contract for the acquisition of a home or the construction of a dwelling house and other improvements does not exceed ninety thousand dollars ($90,000).

(d) The Indian veteran has paid a reasonable fee set by the department to cover the cost of preliminary service of the department that may be necessary to process the application.

(e) The Indian veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract executed by a

contractor licensed by the State of California or by an Indian contractor approved by the department for the construction of the improvements, in accordance with the plans and specifications, within eight months after the assignment of the Indian veteran's beneficial interest or acquisition of the Indian veteran's leasehold interest in the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company, authorized to do business in the State of California.

(f) The plans, specifications, contract, and bond are approved by the department.

(g) The Indian veteran has placed in escrow all sums of money to be advanced by the veteran where the cost is in excess of the maximum that may be expended by the department.

SEC. 10. Section 987.78 of the Military and Veterans Code is amended to read:

987.78. (a) In the event of a forfeiture of a contract of purchase under this article, the department may sell or otherwise dispose of the property covered by the forfeited contract to any person and upon any terms and conditions as it deems proper.

(b) Where the department elects in the event of a forfeiture to sell or otherwise dispose of an assignment of an Indian veteran's beneficial interest or of a leasehold interest in allotment trust land, the department shall first offer it for sale to the person or persons for whom the land is held in trust, including an Indian veteran having a beneficial interest in the trust land on which the forefeiture occurred, at a price equal to the unpaid balance of the contract price. If none of the persons for whom the land is held in trust accepts the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(c) Where the department elects in the event of forfeiture to sell or otherwise dispose of a leasehold interest in tribal trust land, the department shall first offer it for sale to the tribe for whom the land is held in trust at a price equal to the unpaid balance of the contract price. If the tribe fails to accept the offer, the department shall next offer it to the United States Secretary of the Interior at the same price.

(d) Where all the parties to whom the department is required to offer the property under subdivision (b) or (c) fail to accept the offer, the department may sell or otherwise dispose of the property covered by the forfeited contract as provided by subdivision (a) and, in so doing, the department shall give first preference to any good faith offer by a person approved by the tribal council of the reservation, rancheria, or land held under the jurisdiction of that particular tribal governing body on which the allotment land is sited.

(e) If the property is subject to a participation contract, the department may, at its option, pay the balance due upon the participation contract, including accrued interest, without penalty.

SEC. 11. Section 987.85 of the Military and Veterans Code is amended to read:

987.85. The department shall not acquire a home in which the veteran has an interest of record except in the following instances:

(a) Where the application is for aid for the construction of a home upon real property owned by the applicant and the improvements to be constructed thereon have not reached completion as evidenced by the issuance of a certificate of occupancy.

(b) Where the veteran had no interest of record in the property at the time of filing his or her application and thereafter secured interim financing pending the processing and approval of the application by the department.

(c) Where the application is for the purchase of a mobilehome to be situated upon real property, or an undivided interest therein, owned by the applicant.

(d) Where the applicant is an Indian veteran and the application is for the construction of a dwelling house or other improvements on, or for the purchase of a mobilehome to be sited on, trust land in which the Indian veteran has a beneficial interest or owns an interest of record.

SEC. 12. Section 987.93 of the Military and Veterans Code is amended to read:

987.93. (a) On or before February 1 of each year, the department shall submit to the Legislature a report on the utilization of veterans' farm and home loan funds by lower income veterans, including an annual summary of the amounts and loan-to-value ratios of loans offered to lower income veterans, the number of lower income veterans who are rejected because of insufficient income, or who declined loan offers because of inability to afford downpayments, and of the utilization of lower initial monthly payments and longer term financing to make financing available to lower income veterans. The report shall incorporate the reports required by Section 5 of Chapter 1477 of the Statutes of 1974.

(b) On or before February 1 of every even-numbered year, the department shall submit to the Legislature a report on all of the following:

(1) The number of leasehold interests acquired on trust land and the number of Indian veterans' beneficial interests assigned to the department.

(2) The forfeiture rate on loans secured by leasehold interest on trust land or assignments of an Indian veteran's beneficial interest.

(3) The disposition of forfeited leasehold interests on trust land and assignments of an Indian veteran's beneficial interest.

CHAPTER 455

An act to amend Sections 5170, 5172, and 5173 of the Business and Professions Code, relating to accountancy.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 5170 of the Business and Professions Code is amended to read:

5170. The board is authorized to enter into a contract with a nonprofit organization controlled by licensees to provide volunteer accounting services within the state. The contract shall be for fifty thousand dollars ($50,000) the first year and may be renewed from year to year in an amount to be determined by the Board of Accountancy not to exceed one hundred thousand dollars ($100,000) per year.

SEC. 2. Section 5172 of the Business and Professions Code is amended to read:

5172. There is hereby appropriated from the Accountancy Fund to the board sufficient funds to execute the contract authorized pursuant to Section 5170. The funds appropriated by this section shall not be continuously appropriated but shall be appropriated in the Budget Act.

(b) Payments under any contract shall be made on a quarterly basis in advance.

SEC. 3. Section 5173 of the Business and Professions Code is amended to read:

5173. This article shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 4. It is the intent of the Legislature that future funding to support programs providing volunteer accounting services within this state be obtained from private, not public, sources.

CHAPTER 456

An act to amend Section 41871 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 41871 of the Food and Agricultural Code is

amended to read:

41871. This chapter shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 457

An act to add Section 68511.1 to the Government Code, relating to the Judicial Council.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 68511.1 is added to the Government Code, to read:

68511.1. The Judicial Council shall prepare a pamphlet explaining the nature of guardianship of a minor and the rights, duties, and obligations of a person serving as guardian of a minor. The pamphlet shall be prepared in English and Spanish in language easily understood by a lay person not trained in law. Pamphlets shall be distributed to the superior courts in the state for use in guardianships established pursuant to Section 366.25 of the Welfare and Institutions Code and for such other purposes as may be directed or permitted by the Judicial Council.

SEC. 2. Section 366.25 of the Welfare and Institutions Code authorizes the juvenile court to establish guardianships over minors who have become dependent children of the court. As amended by Chapter 1485 of the 1987 Statutes, it requires a report from the agency regarding the proposed guardianships to include discussion of the proposed guardian's understanding of the legal and financial rights and responsibilities of guardianships.

The Legislature hereby finds and declares that social workers will benefit from definitive and uniform direction on these subjects, and that it is also desirable that information regarding these guardianships be consistent throughout the state. It is the intent of the Legislature that the pamphlet prepared pursuant to this act assist the courts in attaining those goals.

CHAPTER 458

An act to amend Section 2807 of the Penal Code, relating to correctional facilities.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 2807 of the Penal Code is amended to read:

2807. (a) The authority is hereby authorized and empowered to operate industrial, agricultural and service enterprises which will provide products and services needed by the state, or any political subdivision thereof, or by the federal government, or any department, agency, or corporation thereof, or for any other public use. Products may be purchased by state agencies to be offered for sale to inmates of the department and to any other person under the care of the state who resides in state-operated institutional facilities.

(b) All things authorized to be produced under subdivision (a) above shall be purchased by the state or any agency thereof, and may be purchased by any county, city, district, or political subdivision, or any agency thereof, or by any state agency to offer for sale to persons residing in state-operated institutions, at the prices fixed by the board. State agencies shall make maximum utilization of such products, and shall consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

CHAPTER 459

An act to amend and repeal Section 46111 of the Education Code, relating to schools.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 46111 of the Education Code, as amended by Section 1 of Chapter 339 of the Statutes of 1985, is amended to read:

46111. No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.

This section shall not apply to the Pasadena Unified School District or counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977. In addition, this section shall not apply to the San Bernardino Unified School District with regard to any pupil of that district who is determined

by the principal of the school in which that pupil is enrolled, pursuant to testing, teacher recommendation, or both, to be developmentally and academically suited for the longer instructional day.

SEC. 2. Section 46111 of the Education Code, as amended by Section 2 of Chapter 339 of the Statutes of 1985, is repealed.

SEC. 3. Due to the unique circumstances concerning the kindergarten program of the San Bernardino Unified School District and the school district's efforts to desegregate and integrate, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the programs specified in this act.

CHAPTER 460

An act to amend Sections 25270, 27904, and 35784 of, to add Sections 27904.5 and 35252 to, and to add Article 15 (commencing with Section 28100) to Chapter 5 of Division 12 of, the Vehicle Code, relating to vehicles.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 25270 of the Vehicle Code is amended to read:

25270. Any pilot car required by the permit referred to in Section 35780 or 35790, or any vehicle or combination of vehicles subject to the permit if specified in the permit, shall be equipped with flashing amber warning lights to the front, sides or rear. The pilot car and any vehicles required by the permit to have flashing amber warning lights, shall display the flashing amber warning lights while actually engaged in the movement described in the permit. The warning lamps shall be removed or covered with opaque material whenever the pilot car is not escorting the movement described in the permit.

SEC. 2. Section 27904 of the Vehicle Code is amended to read:

27904. There shall be displayed in a conspicuous place on both the right and left sides of a pilot car a sign showing the name of the company which owns or operates the pilot car. The name shall contrast with the background and shall be of a size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet. Additional markings which do not interfere with the legibility of the name may also be displayed.

SEC. 3. Section 27904.5 is added to the Vehicle Code, to read:

27904.5. Subject to Section 35783.5, a pilot car shall display neat, clean, and legible signs containing the word "OVERSIZE." The words "OVERSIZE LOAD," "WIDE LOAD," or "LONG LOAD" may be substituted as applicable. The sign shall be a minimum of 48 inches above the ground and shall be legible at 45 degrees from either side when read from the front or rear. The sign shall have a bright yellow background with a minimum projected area of 440 square inches. The lettering shall be black with a 1-inch minimum brush stroke width and a 6-inch minimum letter height.

SEC. 4. Article 15 (commencing with Section 28100) is added to Chapter 5 of Division 12 of the Vehicle Code, to read:

Article 15. Pilot Cars

28100. A pilot car shall display at least one red warning flag on each side of the vehicle. The flags shall be a minimum of 16 inches square, and shall be mounted so as to be visible from both the front and rear of the vehicle. The flags shall be removed or covered when the vehicle is not operating as a pilot car.

28101. In addition to the lighting, sign, and flag requirements in Sections 25270, 27904, 27904.5, and 28100, a pilot car shall meet all of the following requirements:

(a) Be a vehicle not less than 60 inches in width.

(b) Be equipped with all of the following:

(1) One STOP/SLOW paddle.

(2) One orange vest, shirt, or jacket.

(3) One red hand flag (24 inches square).

(4) One two-way radio communication device.

28102. Pilot cars equipped with vertical clearance measuring devices shall comply with Section 35252.

28103. It is unlawful and an infraction for any person to violate any provision of this article or to fail to have any required equipment in good working order.

SEC. 5. Section 35252 is added to the Vehicle Code, to read:

35252. (a) A pilot car may operate a vertical clearance measuring device with a height in excess of 14 feet when escorting a permitted overheight load. The pilot car may also operate the vertical clearance measuring device when surveying a route for a permitted overheight load.

(b) Any vertical measuring device used by a pilot car shall be designed and operated so as to avoid any damages to overhead structures. The measuring device shall be securely affixed to the pilot car, and shall be operated in a manner that does not create a hazard to surrounding traffic.

(c) The operator of the pilot car shall not reduce the vehicle's speed more than 20 miles per hour below the posted speed limit on the roadway to measure overhead clearance, nor exit the vehicle to measure the clearance of overhead structures from a vantage point

on or above the roadway.

SEC. 6. Section 35784 of the Vehicle Code is amended to read:

35784. (a) Except as provided in subdivision (b), it is unlawful for any person to violate any of the terms or conditions of any special permit.

(b) In an incorporated city where compliance with the route described in a special permit would result in a violation of local traffic regulations, the permittee may detour from the prescribed route to avoid violating the local traffic regulations if the permittee returns as soon as possible to the prescribed route. A detour under this subdivision shall be made only on nonresidential streets.

(c) If a violation under subdivision (a) consists of an extralegal load not being on the route described in the special permit, and the violation is directly caused by the action of an employee under the supervision of, or by the action of any independent contractor working for, a permittee subject to this section, the employee or independent contractor causing the violation is guilty of a misdemeanor. This subdivision applies only if the employee or independent contractor has been provided written direction on the route to travel and has not been directed to take a different route by a peace officer.

(d) The guilt of an employee or independent contractor under subdivision (c) shall not extend to the permittee employing that person unless the permittee is separately responsible for an action causing the violation.

(e) A violation of equipment requirements contained in Division 12 (commencing with Section 24000), by any person operating a pilot car shall not be considered a violation of any terms or conditions of a special permit under subdivision (a).

(f) (1) Any person convicted of a violation of the terms and conditions of a special permit shall be punished by a fine not exceeding five hundred dollars ($500) or by imprisonment in the county jail for a period not exceeding six months, or by both that fine and imprisonment.

(2) In addition, if the violation involves weight in excess of that authorized by the permit, an additional fine shall be levied as specified in Section 42030 on the amount of weight in excess of the amount authorized by the permit.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 461

An act to repeal Chapter 4.3 (commencing with Section 610) of Division 3 of the Harbors and Navigation Code, relating to vessels.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Chapter 4.3 (commencing with Section 610) of Division 3 of the Harbors and Navigation Code is repealed.

CHAPTER 462

An act to add Section 23800.1 to the Education Code, relating to the State Teachers' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 23800.1 is added to the Education Code, to read:

23800.1. Notwithstanding Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code or any other provision of law to the contrary, death payments and return of contributions pursuant to Section 23801, if any, may be requested by the beneficiary and paid by the system as soon as practicable after receipt of proof of death.

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

There is an immediate need of the members, retirants, and beneficiaries for the elimination of the 40-day waiting period imposed by the Probate Code upon the submission of claims for death benefits of the State Teachers' Retirement System. In order to help relieve financial and emotional hardship on beneficiaries and on persons handling the decedent's affairs in death benefit cases where the estate is the beneficiary and the estate is not probated at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 463

An act to amend and repeal Section 86 of the Code of Civil Procedure, and to repeal Section 3 of Chapter 104 of the Statutes of 1987, relating to courts.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 86 of the Code of Civil Procedure, as amended by Section 1 of Chapter 104 of the Statutes of 1987, is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to twenty-five thousand dollars ($25,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed twenty-five thousand dollars ($25,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed twenty-five thousand dollars ($25,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding twenty-five thousand dollars ($25,000) or property of a value not exceeding twenty-five thousand dollars ($25,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer where the whole amount of damages claimed is twenty-five thousand dollars ($25,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is twenty-five thousand dollars ($25,000) or less.

(6) In all actions to enforce and foreclose liens of mechanics, materialmen, artisans, laborers, and of all other persons to whom liens are given under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment lien on a common interest development as defined in Section 1351 of the Civil Code, where the amount of the liens is twenty-five thousand dollars ($25,000) or less. However, where an action to enforce the lien is pending in a

municipal or justice court, and affects property which is also affected by a similar action pending in a superior court, or where the total amount of the liens sought to be foreclosed against the same property by action or actions in a municipal or justice court aggregates an amount in excess of twenty-five thousand dollars ($25,000), the municipal or justice court in which any such action, or actions, is, or are, pending, upon motion of any interested party, shall order the action or actions pending therein transferred to the proper superior court. Upon the making of the order, the same proceedings shall be taken as are provided by Section 399 with respect to the change of place of trial.

(7) In actions for declaratory relief when brought by way of cross-complaint as to a right of indemnity with respect to the relief demanded in the complaint or a cross-complaint in an action or proceeding otherwise within the jurisdiction of the municipal or justice court.

(8) To issue temporary restraining orders and preliminary injunctions, to take accounts, and to appoint receivers where necessary to preserve the property or rights of any party to an action of which the court has jurisdiction; to appoint a receiver and to make any order or perform any act, pursuant to Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments); to determine title to personal property seized in an action pending in such court.

(9) In all actions under Article 3 (commencing with Section 708.210) of Chapter 6 of Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property or to enforce the liability of the debtor of a judgment debtor where the interest claimed adversely is of a value not exceeding twenty-five thousand dollars ($25,000) or the debt denied does not exceed twenty-five thousand dollars ($25,000).

(10) In all arbitration-related petitions filed pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3, except for uninsured motorist arbitration proceedings in accordance with Section 11580.2 of the Insurance Code, if the petition is based upon the subject matter of a pending action properly filed in the municipal court.

(b) Each municipal and justice court has jurisdiction of cases in equity as follows:

(1) In all cases to try title to personal property when the amount involved is not more than twenty-five thousand dollars ($25,000).

(2) In all cases when equity is pleaded as a defensive matter in any case otherwise properly pending in a municipal or justice court.

(3) To vacate a judgment or order of such municipal or justice court obtained through extrinsic fraud, mistake, inadvertence, or excusable neglect.

(c) In any action that is otherwise within its jurisdiction, the court may impose liability whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(d) Changes in the jurisdictional ceilings made by amendments to

this section at the 1977–78 Regular Session or the 1985–86 Regular Session of the Legislature shall not constitute a basis for the transfer to another court of any case pending at the time such changes become operative.

SEC. 2. Section 86 of the Code of Civil Procedure, as amended by Section 2 of Chapter 104 of the Statutes of 1987, is repealed.

SEC. 3. Section 3 of Chapter 104 of the Statutes of 1987 is repealed.

CHAPTER 464

An act to amend Section 29030 of the Food and Agricultural Code, relating to bees.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 29030 of the Food and Agricultural Code is amended to read:

29030. (a) The beekeeper, apiary owner, apiary operator, or the person in possession of any apiary shall pay to the director an annual assessment fee not to exceed thirty-five cents ($0.35) per colony as determined by the director, after consultation with the board, and input from the industry, to be necessary to carry out this article. However, the fee shall only be paid once each year by any one of these persons. For colonies imported into the state, the fee shall be collected at the time the colonies are received in the state.

(b) Beekeepers, apiary owners, apiary operators, or persons in possession of any apiary are exempt from the assessments required under this section if they own and operate less than 40 colonies.

(c) The department shall, from money available for the purpose in this subdivision, match any funds raised by the assessments imposed under this section and deposit those matching funds in the Department of Food and Agriculture Fund for the purposes stated in Section 29032.

(d) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 465

An act to amend Sections 53250, 55600, 55631, and 56835 of the Government Code, to amend Sections 13811, 13846, 13861, 13872, and 13917 of, to repeal Chapter 4 (commencing with Section 14800) of Part 3 of Division 12 of, the Health and Safety Code, and to amend Sections 20812 and 20813 of the Public Contract Code, relating to fire protection districts, and declaring the urgency thereof, to take effect immediately

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 53250 of the Government Code is amended to read:

53250. The legislative body of a city or a fire protection district in which there is a regularly organized paid fire department or county fire warden department, shall grant to each regular or permanent member of the department an annual leave of absence from active duty of not less than fifteen consecutive days. It shall also grant each member a leave of absence from active duty of not less than four working shifts in each month of service.

SEC. 2. Section 55600 of the Government Code is amended to read:

55600. As used in this article, "local agency" means a city, chartered city, or a fire protection district.

SEC. 3. Section 55631 of the Government Code is amended to read:

55631. As used in this article, "local agency" means a neighboring city, county, fire protection district, police protection district, federal government or any federal department or agency.

SEC. 4. Section 56835 of the Government Code is amended to read:

56835. The executive officer shall also give mailed notice of any hearing by the commission, as provided in Sections 56155 to 56157, inclusive, by mailing notice of the hearing to all of the following persons and entities:

(a) To each affected local agency.

(b) To the chief petitioners, if any.

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

(d) If the proposal is for any annexation or detachment, or for a reorganization providing for the formation of a new district, to each city within three miles of the exterior boundaries of the territory proposed to be annexed, detached, or formed into a new district.

(e) If the proposal is to incorporate a new city or for the formation of a district, to the affected county.

(f) If the proposal includes the formation of, or annexation of territory to, a fire protection district formed pursuant to the Fire Protection District Law of 1987, Part 3 (commencing with Section 13800) of Division 12 of the Health and Safety Code, and all or part of the affected territory has been classified as a state responsibility area, to the Director of Forestry and Fire Protection.

SEC. 5. Section 13811 of the Health and Safety Code is amended to read:

13811. Territory which has been classified as a state responsibility area may be included in a district, except for commercial forest lands which are timbered lands declared to be in a state responsibility area. The executive officer of the local agency formation commission shall give mailed notice of the commission's hearing on any proposal to include a state responsibility area in a district, whether by annexation or formation, to the Director of Forestry and Fire Protection. The commission may approve the proposal. Upon inclusion of a state responsibility area in a district, whether by formation or annexation, the state shall retain its responsibility for fire suppression and prevention on timbered, brush, and grass-covered lands. The district shall be responsible for fire suppression and prevention for structures in the area and may provide the same services in the state responsibility area as it provides in other areas of the district.

SEC. 6. Section 13846 of the Health and Safety Code is amended to read:

13846. (a) In the case of an elected district board, the directors may be elected by divisions if a majority of the voters voting upon the question are in favor of the question at a general district or special election. Conversely, in the case of a district which has an elected district board which is elected by election division, the directors may be elected at large if a majority of the voters voting upon the question are in favor of the question at a general district or special election.

(b) As used in this section, " election by division" means the election of each member of the district board by voters of only the respective election division.

(c) The district board may adopt a resolution placing the question on the ballot. Alternatively, upon receipt of a petition signed by at least 25 percent of the registered voters of the district, the district board shall adopt a resolution placing the question on the ballot.

(d) If the question is submitted to the voters at a general district election, the notice required by Section 23511 of the Elections Code shall contain a statement of the question to appear on the ballot. If the question is submitted to the voters at a special election, the notice of election and ballot shall contain a statement of the question.

(e) If the majority of voters voting upon the question approves the election of directors by divisions, the district board shall promptly adopt a resolution dividing the district into as many divisions as there are directors. The resolution shall assign a number to each division. Using the last decennial census as a basis, the

divisions shall be as nearly equal in population as possible. In establishing the boundaries of the divisions the district board may give consideration to the following factors: (i) topography, (ii) geography, (iii) cohesiveness, contiguity, integrity, and compactness of territory, and (iv) community of interests of the divisions.

(f) If the majority of voters voting upon the question approves the election of directors by division, the board members shall be elected by election divisions and each member elected shall be a resident of the election division from which he or she is elected. At the district general election following the approval by the voters of the election of directors by divisions, the district board shall assign vacancies on the board created by the expiration of terms to the respective election divisions and the vacancies shall be filled from those election divisions.

(g) If the majority of voters voting upon the question approves the election of directors at large, the district board shall promptly adopt a resolution dissolving the election divisions which had existed.

SEC. 7. Section 13861 of the Health and Safety Code is amended to read:

13861. A district shall have and may exercise all rights and powers, expressed or implied, necessary to carry out the purposes and intent of this part, including, but not limited to, the following powers:

(a) To sue and be sued.

(b) To acquire any property, including water facilities for providing fire protection, within the district by any means, to hold, manage, occupy, dispose of, convey and encumber the property, and to create a leasehold interest in the property for the benefit of the district.

(c) To acquire by eminent domain any property necessary to carry out any of its powers or functions.

(d) To appoint necessary employees, to define their qualifications and duties, and to provide a pay schedule for performance of their duties.

(e) To employ counsel.

(f) To enter into and perform all necessary contracts pursuant to Article 53 (commencing with Section 20810) of Part 3 of Division 2 of the Public Contract Code.

(g) To adopt a seal and alter it at pleasure.

(h) To adopt ordinances following the procedures of Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code.

(i) To establish and enforce rules and regulations for the administration, operation, and maintenance of the services listed in Section 13862.

(j) To enter joint powers agreements pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

(k) To provide insurance pursuant to Part 6 (commencing with

Section 989) of Division 3.6 of Title 1 of the Government Code.

SEC. 8. Section 13872 of the Health and Safety Code is amended to read:

13872. A district may, by ordinance, authorize its fire chief, or his or her duly authorized representative, to issue citations for the misdemeanors specified in Section 13871. The provisions of Chapter 5C (commencing with Section 853.1) of Title 4 of Part 2 of the Penal Code shall apply.

SEC. 9. Section 13917 of the Health and Safety Code is amended to read:

13917. A district board may charge residents or taxpayers of the district a fee authorized pursuant to Section 13916 which is less than the fee which it charges to nonresidents or nontaxpayers of the district.

SEC. 10. Chapter 4 (commencing with Section 14800) of Part 3 of Division 12 of the Health and Safety Code is repealed.

SEC. 11. Section 20812 of the Public Contract Code is amended to read:

20812. (a) A district board may contract for special services. These contracts shall be with persons specially trained, experienced, expert, and competent to perform the special services. The special services shall be limited to the fields of accounting, administration, ambulance, architecture, custodial, economics, engineering, finance, insurance, labor relations, law, maintenance, mechanics, medicine, planning, science, technology, and other services which are incidental to the operation of the district.

(b) In the case of a district which has a final budget in excess of one million dollars ($1,000,000), the district shall follow the contracting and purchasing procedures which apply to the county government of its principal county or the procedures in subdivision (c).

(c) In the case of a district which has a final budget less than one million dollars ($1,000,000), the district shall follow the procedures of this subdivision.

(1) When the expenditure required for the service contract exceeds ten thousand dollars ($10,000), it shall be contracted for and let to the lowest responsible bidder. If two or more bids are the same and the lowest, the district board may accept the one it chooses.

(2) The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, at least five days apart, in a newspaper of general circulation in the district, or if there is none, it shall be posted in at least three public places in the district. The notice shall distinctly state the service to be performed.

(3) The district board may reject any bids. If the district board rejects all bids, it may either readvertise or adopt a resolution, by two-thirds vote, declaring that the service can be performed more economically by the district's employees or obtained at a lower price

in the open market. Upon adoption of the resolution, the district board may undertake the service contract without further complying with this section.

(4) If no bids are received, the district board may undertake the service contract without further complying with this section.

(5) In the case of an emergency, the district board may adopt a resolution by a two-thirds vote of all the members of the district board declaring that the public interest and necessity demand immediate expenditure of public money for special services in order to safeguard life, health, or property. The board may expend any sum for special services as may be required in the emergency without submitting the expenditure to bid.

SEC. 12. Section 20813 of the Public Contract Code is amended to read:

20813. (a) All contracts for the construction or completion of any building, structure, or improvement, when the expenditure required for the work exceeds ten thousand dollars ($10,000), shall be contracted for and let to the lowest responsible bidder after notice. If two or more bids are the same and the lowest, the district board may accept the one it chooses.

(b) The notice inviting bids shall set a date for the opening of bids. The first publication or posting of the notice shall be at least 10 days before the date of opening the bids. Notice shall be published at least twice, not less than five days apart, in a newspaper of general circulation in the district, or if there is none, it shall be posted in at least three public places in the district. The notice shall distinctly state the work to be done.

(c) In its discretion, the district board may reject any bids presented and readvertise.

(d) In the case of an emergency, the district board may adopt a resolution by a two-thirds vote of all the members of the district board declaring that the public interest and necessity demand immediate expenditure of public money to safeguard life, health, or property. The district board may expend any sum required in the emergency for the construction or completion of any building, structure, or improvement without submitting the expenditure to bid.

(e) The district board may, subject to the provisions of Chapter 7 (commencing with Section 3247) of Title 15 of Part 4 of Division 3 of the Civil Code, require the posting of those bonds it deems desirable as a condition to the filing of a bid or the letting of a contract.

(f) Cost records of the work shall be kept in the manner provided in Chapter 1 (commencing with Section 4000) of Division 5 of Title 1 of the Government Code.

SEC. 13. The Legislature finds and declares that the change to Section 13861 of the Health and Safety Code made by Section 7 of this act is declaratory of existing law.

SEC. 14. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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

The Fire Protection District Act of 1987, as added by Chapter 1013 of the Statutes of 1987, contains errors and omissions which if left uncorrected, will harm the ability of local officials to respond to threats to life and property. It is necessary to correct these problems as quickly as possible.

CHAPTER 466

An act to add Chapter 15.5 (commencing with Section 22325) to Division 8 of the Business and Professions Code, relating to automobile rental agencies.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Chapter 15.5 (commencing with Section 22325) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 15.5. AUTOMOBILE RENTAL AGENCIES

22325. (a) No automobile rental agency shall enter into a contract for the lease or rental of a motor vehicle unless it is disclosed both orally and in writing to the customer that the collision damage waiver offered by the agency may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(b) As used in this section "automobile rental agency" means any person or entity engaged in the business of renting or leasing motor vehicles in this state.

CHAPTER 467

An act to amend Section 10012 of the Financial Code, relating to savings associations.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 10012 of the Financial Code is amended to read:

10012. Notwithstanding Section 10011, and subject to Section 10013, on and after July 1, 1987, a foreign savings association which is incorporated under the laws of any of the states of Alaska, Arizona, Colorado, Hawaii, Idaho, Nevada, New Mexico, Oregon, Texas, Utah, or Washington, and which is not directly or indirectly controlled by either a foreign savings association which is incorporated under the laws of a state other than any of the states listed in this section or a foreign holding company with its principal place of deposits located in a state outside one of those states, may conduct the business of an association in California or may acquire control of a California savings association, and a foreign holding company with its principal place of deposits in any of the states listed in this section may acquire control of a California savings association, provided that, if the commissioner determines that the laws, court decisions, or practices of the jurisdiction in which the foreign savings association is incorporated or foreign holding company has its principal place of deposits would operate to prohibit, restrict, condition, or otherwise limit a California savings association from conducting the business of, or acquiring control of, a savings association in the relevant jurisdiction pursuant to the laws, court decisions, or practices of that jurisdiction, a similar prohibition, restriction, condition, or limitation to be prescribed by regulation or order of the commissioner shall apply in California to the foreign savings association or foreign holding company.

CHAPTER 468

An act to amend Sections 10081 and 10081.5 of the Business and Professions Code, relating to real estate.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 10081 of the Business and Professions Code

is amended to read:

10081. (a) Whenever the commissioner believes from evidence satisfactory to him that any person has violated or is about to violate any of the provisions of this part or of Chapter 1 (commencing with Section 11000) of Part 2 or any order, license, permit, decision, demand or requirement, or any part or provision thereof, he or she may bring an action in the name of the people of the State of California in the superior court of the State of California against that person to enjoin him or her from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

In this action an order or judgment may be entered awarding such preliminary or final injunction as may be proper, but no preliminary injunction or temporary restraining order shall be granted without at least five days' notice to the defendant.

If the commissioner makes a showing satisfactory to the court that the violations or threatened violations jeopardize funds and properties of others in the custody or under the control of the defendant, the court may appoint a receiver for management of the business of the defendant, including, but not limited to, the funds and properties of others in his or her possession or may make any other order as it deems appropriate to protect and preserve those funds and properties.

The order appointing the receiver shall specify the source of the funds for payment of the fees of the receiver and the costs attributable to administering the receivership. Unless provided for in the order, the commissioner shall not be liable for payment of the fees or costs.

(b) The commissioner may include in any action authorized by subdivision (a), a claim for restitution on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award appropriate relief to such persons.

SEC. 2. Section 10081.5 of the Business and Professions Code is amended to read:

10081.5. Whenever the commissioner believes from evidence satisfactory to him or her that any real estate licensee has violated or is about to violate, the provisions of Section 10145, the commissioner may bring an action in the name of the people of the State of California, in the superior court of the State of California, to enjoin the licensee from continuing the violation or engaging therein or doing any act or acts in furtherance thereof.

In the event the commissioner has conducted an audit which reflects commingling or conversion of trust funds in excess of ten thousand dollars ($10,000), the court may enter an order restraining the licensee from doing any act or acts in furtherance thereof, and from further exercising the privileges of his or her license pending further order of the court, provided that a hearing shall be held on the order within five days after the date thereof.

After such hearing in the manner provided by law, an order may

be entered appointing a receiver, or such other order as the court may deem proper. The order appointing the receiver shall specify the source of the funds from which the fees of the receiver and the costs of administering the receivership are to be paid. Unless provided for in the order, the commissioner shall not be liable for payment of the fees or costs.

A receiver appointed by the court pursuant to this section may, with the approval of the court, exercise all of the powers of the licensee or its officers, directors, partners, trustees, or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy of the licensee.

CHAPTER 469

An act relating to flood disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Notwithstanding any provision contained in Section 6 of Chapter 16 of the Statutes of 1986, any local agency which filed a claim or application pursuant to subdivision (d) of that section on or before December 31, 1987, shall be deemed to have complied with all established deadlines for eligibility for relief under that subdivision. If the amount of claims eligible for funding pursuant to this section exceed the amount of funds appropriated by this act for those claims, the Department of Finance shall pay claims to individual eligible counties in proportion to the total amount of authorized claims.

SEC. 1.5. The sum of nine hundred forty thousand dollars ($940,000) is hereby transferred from the Special Fund for Economic Uncertainties, created pursuant to Section 16418 of the Government Code, to the Disaster Response-Emergency Operations Account, established pursuant to Section 8690.6 of the Government Code, for purposes of providing the relief described in Section 1. Notwithstanding paragraph (1) of subdivision (a) of Section 8690.6, the Director of Finance shall allocate the sum transferred by this section for purposes of providing the relief described in Section 1.

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

In order that local agencies which were inadvertently excluded from the receipt of disaster relief for the floods which occurred in

1986 in California may be provided with that intended relief as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 470

An act to add Section 3662.5 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 3662.5 is added to the Public Utilities Code, to read:

3662.5. The commission shall require no dump truck carrier rate established after a hearing to take effect sooner than 30 days after issuance of its order establishing the rate, regardless of the effective date of that order, unless the commission finds and determines that an emergency situation requires it to specify an earlier date for the rate to take effect.

CHAPTER 471

An act to amend Section 2471 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 2471 of the Business and Professions Code is amended to read:

2471. (a) The board may select and contract with necessary podiatric medical consultants who are licensed doctors of podiatric medicine to assist it in its enforcement program on an intermittent basis. No person may serve as a consultant for more than a total of 48 months unless there has been a break following his or her achievement of that period of service of at least 36 months. Notwithstanding any other provision of law, the board may contract with these consultants on a sole source basis.

(b) Notwithstanding the limitation on service under subdivision (a), the board may continue to contract with the consultant who was responsible for investigating or prosecuting a specific case if the case is continued past the term of the consultant's contract.

(c) For the purposes of Division 3.6 (commencing with Section

810) of Title 1 of the Government Code, any consultant under contract with the board shall be considered a public employee.

CHAPTER 472

An act to amend Section 3543 of, and to add Sections 1068, 2117, 3801.3, 5311.3, 5387, 5411.3, and 5412.5 to, the Public Utilities Code, relating to carriers.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1068 is added to the Public Utilities Code, to read:

1068. No common carrier shall operate any motor vehicle over any public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the carrier belongs.

No such identifying symbol shall be displayed on any vehicle until a certificate of public convenience and necessity has been issued to the carrier. The identifying symbols displayed by carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the carrier with the commission.

The identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

SEC. 2. Section 2117 is added to the Public Utilities Code, to read:

2117. Every passenger stage corporation, highway common carrier, or cement carrier, and every officer, director, agent, or employee of a passenger stage corporation, highway common carrier, or cement carrier, who displays on any vehicle any identifying symbol other than one prescribed by the commission pursuant to Section 1038.5 or 1068, or who fails to remove an identifying symbol when required by the commission, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in the county jail for not more than one year, or by both.

SEC. 3. Section 3543 of the Public Utilities Code is amended to read:

3543. No highway permit carrier shall operate any motor vehicle over any public highway unless there is displayed on the vehicle a distinctive identifying symbol in the form prescribed by the commission, showing the classification to which the carrier belongs.

No such identifying symbol shall be displayed on any vehicle until

a permit under this chapter has been issued to the carrier. The identifying symbols displayed by highway carriers subject to the Interstate Commerce Commission Order Ex Parte No. MC-41, Identification of Motor Carrier Vehicles, November 17, 1954, effective January 3, 1955, shall serve in lieu of the display requirements of this section, if the identifying symbols have been recorded by the highway carrier with the commission.

The identifying symbol shall be displayed on both the left and right doors of the cab of the vehicle.

SEC. 4. Section 3801.3 is added to the Public Utilities Code, to read:

3801.3. Every highway permit carrier, and every officer, director, agent, or employee of a highway permit carrier, who displays on any vehicle any identifying symbol other than one prescribed by the commission pursuant to Section 3543, or who fails to remove an identifying symbol when required by the commission, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in the county jail for not more than one year, or by both.

SEC. 5. Section 5311.3 is added to the Public Utilities Code, to read:

5311.3. Every household goods carrier, and every officer, director, agent, or employee of a household goods carrier, who displays on any vehicle any identifying symbol other than one prescribed by the commission pursuant to Section 5132 or who fails to remove an identifying symbol when required by the commission, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in the county jail for not more than one year, or by both.

SEC. 6. Section 5387 is added to the Public Utilities Code, to read:

5387. (a) The commission, each commissioner, and each officer and person employed by the commission may, at any time have access to the land, buildings, or equipment of a charter-party carrier of passengers used in connection with the operation of its business and may inspect the accounts, books, papers, and documents of the carrier. Any inspection by the commission may include photocopying or the electrostatic or photostatic reproduction of documents either at the premises of the carrier or the offices of the commission, at the option of the carrier. The commission shall reimburse the carrier for any copying or reproduction expenses incurred by it at the direction of the commission.

(b) Subdivision (a) also applies to access to property and inspections of the accounts, books, papers, and documents of any business which is a subsidiary or affiliate of, or a corporation which holds a controlling interest in, a charter-party carrier of passengers with respect to any transaction between the carrier and the subsidiary, affiliate, or holding corporation.

SEC. 7. Section 5411.3 is added to the Public Utilities Code, to read:

5411.3. Every charter-party carrier of passengers, and every officer, director, agent, or employee of a charter-party carrier of passengers, who displays on any vehicle any identifying symbol other than one prescribed by the commission pursuant to Section 5385, or who fails to remove an identifying symbol when required by the commission, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in the county jail for not more than one year, or by both.

SEC. 8. Section 5412.5 is added to the Public Utilities Code, to read:

5412.5. Every officer or person employed by the commission who, except as authorized by the commission or a court, discloses any fact or information from an inspection of the accounts, books, papers, or documents of a charter-party carrier of passengers is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000), by imprisonment in the county jail for not more than three months, or by both.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 473

An act to amend Section 5068.5 of the Penal Code, relating to criminal law.

[Approved by Governor August 20, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 5068.5 of the Penal Code is amended to read:

5068.5. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), any person employed or under contract to provide diagnostic, treatment, or other mental health services in the state or to supervise or provide consultation on these services the state correctional system shall be a physician and surgeon, a psychologist, or other health professional, licensed to practice in this state.

(b) Notwithstanding Section 5068 or Section 704 of the Welfare and Institutions Code, the following persons are exempt from the requirements of subdivision (a), so long as they continue in employment in the same class and in the same department:

(1) Persons employed on January 1, 1985, as psychologists to

provide diagnostic or treatment services including those persons on authorized leave but not including intermittent personnel.

(2) Persons employed on January 1, 1989, to supervise or provide consultation on the diagnostic or treatment services including persons on authorized leave but not including intermittent personnel.

Additionally, the requirements of subdivision (a) may be waived in order for a person to gain qualifying experience for licensure as a psychologist in this state. However, the waiver shall not exceed two years from the date of the commencement of employment. The requirements of subdivision (a) may be waived for a person recruited for employment from outside this state and who possesses experience sufficient to qualify for admission to a licensing examination on the date of his or her employment for a period of one year from the date of his or her employment.

CHAPTER 474

An act relating to telephones.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. The Public Utilities Commission shall prepare and submit to the Legislature, on or before July 1, 1989, a report on the availability to residential telephone subscribers of the option to delete access to sexually explicit messages transmitted over that class of information-access telephone service commonly referred to as "976 service." This report shall specifically describe what capabilities are in place as of January 1, 1989, for residential subscribers, and shall contain an analysis of the costs and benefits of extending the deletion of access option to those areas where deletion of access is not available. The report shall also describe the availability and cost of any equipment or methods capable of deleting access to that service, which can be installed or implemented at the subscriber's residence.

CHAPTER 475

An act to amend Section 54222 of the Government Code, relating to surplus land.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 54222 of the Government Code, as amended by Chapter 83 of the Statutes of 1985, is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall, upon written request, be sent a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and shall include the location and a description of the property.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(d) A written offer to sell or lease any surplus property in a designated program area, as defined in subdivision (i) of Section 7082, shall be sent to the program area agent.

(e) A written offer to sell or lease surplus land for school purposes shall be sent to any public school district within whose jurisdiction the surplus land is located.

(f) The entity or association desiring to purchase or lease the surplus land for low- and moderate-income housing purposes, or for park or recreation purposes, or for open-space purposes, or for enterprise zone or program area purposes, shall notify in writing the disposing agency of its intent to purchase or lease the land within 60

days after receipt of the agency's notification of intent to sell the land.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 54222 of the Government Code, as amended by Chapter 45 of the Statutes of 1984, is amended to read:

54222. Any agency of the state and any local agency disposing of surplus land shall, prior to disposing of that property, send a written offer to sell or lease the property as follows:

(a) A written offer to sell or lease for the purpose of developing low- and moderate-income housing shall be sent to any local public entity as defined in Section 50079 of the Health and Safety Code, within whose jurisdiction the surplus land is located. Housing sponsors, as defined by Section 50074 of the Health and Safety Code, shall, upon written request, be sent a written offer to sell or lease surplus land for the purpose of developing low- and moderate-income housing. All notices shall be sent by first-class mail and shall include the location and a description of the property.

(b) A written offer to sell or lease for park and recreational purposes or open-space purposes shall be sent:

(1) To any park or recreation department of any city within which the land may be situated.

(2) To any park or recreation department of the county within which the land is situated.

(3) To any regional park authority having jurisdiction within the area in which the land is situated.

(4) To the State Resources Agency or any agency which may succeed to its powers.

(c) A written offer to sell or lease for enterprise zone purposes any surplus property in an area designated as an enterprise zone pursuant to Section 7073 shall be sent to the nonprofit neighborhood enterprise association corporation in that zone.

(d) A written offer to sell or lease any surplus property in a designated program area, as defined in subdivision (i) of Section 7082, shall be sent to the program area agent.

(e) The entity or association desiring to purchase or lease the surplus land for low- and moderate-income housing purposes, or for park or recreation purposes, or for open-space purposes, or for enterprise zone purposes, shall notify in writing the disposing agency of its intent to purchase or lease the land within 60 days after receipt of the agency's notification of intent to sell the land.

(f) This section shall become operative on January 1, 1991.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 476

An act to amend Section 13250 of, to add Section 13251 to, and to repeal Chapter 5.2 (commencing with Section 13200) of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to aliens, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 20, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 13250 of the Welfare and Institutions Code is amended to read:

13250. (a) (1) Except as provided in paragraph (2), this chapter shall be operative only if adequate federal funding is made available and necessary waivers are obtained from the federal government necessary to implement this chapter.

(2) If federal administrative funds are inadequate to fund costs incurred in the administration of the Refugee Cash Assistance Demonstration Project assistance provided to time-eligible recipients, the department and each county shall share those costs as provided for in subdivision (b) of Section 13251.

(b) The department shall implement the Refugee Cash Assistance Demonstration Project on July 1, 1984, or as soon thereafter as is possible. This demonstration project shall be in operation for a period of four years and three months, commencing July 1, 1985, to September 30, 1989, inclusive.

(c) This chapter shall remain operative only until October 1, 1989, and shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. Section 13251 is added to the Welfare and Institutions Code, to read:

13251. (a) The Refugee Cash Assistance and Refugee Medical Assistance components of the Refugee Resettlement Program are federally funded programs established pursuant to the Refugee Act of 1980 (Public Law 96-212), as amended. Federal funding is provided for the administrative costs of cash and medical assistance during the refugee's eligibility for those components. To a more limited extent federal funding is also provided for the administrative costs of time-eligible refugees under the Aid to Families with Dependent Children program and county General Assistance programs.

(b) If federal administrative funds are inadequate to fund costs incurred in the administration of assistance provided to time-eligible refugees under the Refugee Cash Assistance Demonstration Project component, the Refugee Cash Assistance component, the Refugee Medical Assistance component, the Aid to Families with Dependent Children program, and the county General Assistance program, the department shall allocate the available federal funds to cover the state and county administrative costs in the following priority order:

(1) First priority shall be state and county administrative costs for the Refugee Cash Assistance component. To the extent available federal funds are insufficient to meet the county costs, the department shall provide that funding.

(2) Second priority shall be state and county administrative costs for the Refugee Medical Assistance component. To the extent available federal funds are insufficient to meet the county costs, the State Department of Health Services shall provide that funding.

(3) Third priority shall be state and county administrative costs for the Refugee Cash Assistance Demonstration Project component. To the extent available federal funds are insufficient to meet those costs, the department and each county shall equally share those costs.

(4) Fourth priority shall be state and county administrative costs for the Aid to Families with Dependent Children program. To the extent available federal funds are insufficient to meet those costs, the department and each county shall equally share those costs.

(5) Fifth priority shall be county General Assistance administrative costs. To the extent that available federal funds are insufficient to meet those costs, each county shall fund the costs.

SEC. 3. The State Department of Social Services and the State Department of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government Code within 120 days of the enactment of this act to implement this act. The adoption of regulations pursuant to this section in order to implement this act shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Social Services and the State Department of Health Services within 120 days of the enactment of this act in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all the provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs

in this act which, in the aggregate, do not result in additional net costs.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the orderly continuation of programs necessary for the promotion of refugee welfare which are affected by this act, it is necessary that this act take effect immediately.

CHAPTER 477

An act to amend Section 9356.21 of the Government Code, relating to the Legislators' Retirement System.

[Became law without Governor's signature. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 9356.21 of the Government Code is amended to read:

9356.21. Each member or former member who has 10 years of credited service in this system shall receive credit for active service of not less than one year in the armed forces of the United States, or continuous active service of not less than one year in the Merchant Marine of the United States prior to January 1, 1950, which service was rendered prior to assuming for the first time a state office for which membership in the system was elective and terminated with a discharge under other than dishonorable conditions; provided, however, that the credit to be given for that service shall be on the basis of one year of credit for each five years of credited service in this system, but shall not exceed a total of four years regardless of the number of years of either that service or subsequent service in this system. However, any member or retired former member electing to receive a credit for such military service shall contribute in lump sum or by installments over such period and subject to such minimum payments as may be prescribed by regulations of the board, at the member's contribution rate at the time of election or the retired person's contribution rate at retirement applied, respectively, to the average annual compensation of the member over the three years immediately preceding the election or the average annual compensation of the retired person over the three years immediately preceding retirement.

Military service credit shall not be granted for any military service to which any of the following apply:

(a) In any period for which credit is otherwise given under Section 9356.2.

(b) For which service credit was received under any other retirement system.

(c) To the extent that total credit under this section would exceed four years.

An election by a member with respect to military service under this section may be made only while the member is in this system.

Any resulting increase in the allowance of a retired former member shall be applied prospectively only.

CHAPTER 478

An act to amend Section 7551 of the Government Code, relating to California Gold Medallions.

[Became law without Governor's signature. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 7551 of the Government Code is amended to read:

7551. The Department of General Services shall cause to be designed a series of commemorative gold medallions in not less than 1 troy ounce, 0.5 troy ounce, 0.25 troy ounce, and 0.1 troy ounce sizes of .999 fine gold. As used in this chapter, a "medallion" shall also be known, and may be referred to, as a "gold piece."

CHAPTER 479

An act to amend, add, and repeal Sections 1805.1, 1806.3, 1807.2, 1808.5, and 1810.2 of, and to repeal and add Sections 1805.1a, 1805.3, 1805.5, and 1808.6 of, the Civil Code, relating to consumer credit.

[Approved by Governor August 21, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1805.1 of the Civil Code is amended to read:

1805.1. The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to subdivision (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph

(2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

No annual fee or charge shall be made in any retail installment contract.

This section shall be operative until January 1, 1992, and on that date is repealed.

SEC. 1.5. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to subdivision (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500),

(B) Twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000),

(C) Fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or

(D) Seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the dollar amount shown pursuant to subdivision (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under paragraph (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars

($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by paragraph (1) of subdivision (a). Any administrative finance charge which is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on January 1, 1992.

SEC. 2. Section 1805.1a of the Civil Code is repealed.

SEC. 2.5. Section 1805.1a is added to the Civil Code, to read:

1805.1a. For purposes of Section 1805.1, the terms "household furniture, furnishings, or appliances" include, but are not limited to, organs, pianos, musical instruments, electronic home entertainment equipment, and furnishings.

This section shall become operative on January 1, 1992.

SEC. 3. Section 1805.3 of the Civil Code is repealed.

SEC. 3.5. Section 1805.3 is added to the Civil Code, to read:

1805.3. When a retail installment contract provides for unequal or irregular installments, the finance charge shall be at the effective rate provided for in Section 1805.1, having due regard for the schedule of installments.

This section shall become operative on January 1, 1992.

SEC. 4. Section 1805.5 of the Civil Code is repealed.

SEC. 4.5. Section 1805.5 is added to the Civil Code, to read:

1805.5. No seller shall induce or permit any buyer to split up or divide any sales transaction for the purpose of contracting for or receiving a higher rate of finance charge than would otherwise be permitted by this article.

This section shall become operative on January 1, 1992.

SEC. 5. Section 1806.3 of the Civil Code is amended to read:

1806.3. (a) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to repay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge. The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be

made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date, and provided further that in cases where the finance charge or a portion thereof is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(b) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any retail installment contract is satisfied prior to its maturity through surrender of the collateral, repossession of the collateral, redemption of the collateral after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in subdivision (a); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the collateral through disposition thereof or judgment is entered or, if the holder elects to keep the collateral in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the collateral.

(c) This section does not preclude the collection or retention by the holder of any delinquency charge made pursuant to Section 1803.6.

This section shall be operative until January 1, 1992, and on that date is repealed.

SEC. 5.5. Section 1806.3 is added to the Civil Code, to read:

1806.3. (a) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to repay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraph (3). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred, or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar ($1) or more may be made in cash

or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that, in cases where the finance charge or a portion thereof is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates, regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by paragraph (2) or paragraph (3) of subdivision (a) of Section 1805.1, if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(b) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any retail installment contract is satisfied prior to its maturity through surrender of the collateral, repossession of the collateral, redemption of the collateral after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in subdivision (a); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the collateral through disposition thereof or judgment is entered or, if the holder elects to keep the collateral in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the collateral.

(c) This section does not preclude the collection or retention by the holder of any delinquency charge made pursuant to Section 1803.6.

This section shall become operative on January 1, 1992.

SEC. 6. Section 1807.2 of the Civil Code is amended to read:

1807.2. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the remaining amount owing on the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he or she had prepaid in full his or her obligations under the contract or contracts. Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages

provided for therein, subject to the provisions of Section 1803.5. The refinancing agreement shall set forth:

(a) The amount of the existing outstanding balance to be refinanced, which consists of the remaining amount owing to be refinanced.

(b) The amount of any refund credit.

(c) The difference between subdivisions (a) and (b), which is the net outstanding balance to be refinanced.

(d) Any additional cost of insurance and of official fees to the buyer.

(e) The sum of subdivisions (c) and (d), which is the amount financed.

(f) The finance charge (1) as expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(g) The number amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. Where there is a consolidation of two or more contracts then the provisions of Sections 1808.1 and 1808.2 shall apply. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to subdivision (f) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

This section shall be operative until January 1, 1992, and on that date is repealed.

SEC. 6.5. Section 1807.2 is added to the Civil Code, to read:

1807.2. The holder of a retail installment contract or contracts may, upon agreement in writing with the buyer, refinance the remaining amount owing on the contract or contracts by providing for a new schedule of installment payments. The holder may charge and contract for the payment of a refinance charge by the buyer and collect and receive the same, but such refinance charge (1) shall be based upon the amount refinanced, plus any additional cost of insurance and of official fees incident to such refinancing, after the deduction of a refund credit in an amount equal to that to which the buyer would have been entitled under Section 1806.3 if he or she had prepaid in full his or her obligations under the contract or contracts, but in computing such refund credit there shall not be allowed the minimum earned finance charge as authorized by such section; (2) may not exceed the rate of finance charge provided under Article 5 (commencing with Section 1805.1); and (3) may not include an administrative finance charge to the extent such charge is permissible under Article 5 (commencing with Section 1805.1). Such agreement for refinancing may also provide for the payment by the buyer of the additional cost to the holder of the contract or contracts of premiums for continuing in force, until the maturity of the contract or contracts as refinanced, any insurance coverages

provided for therein, subject to the provisions of Section 1803.5. The refinancing agreement shall set forth:

(a) The amount of the existing outstanding balance to be refinanced, which consists of the remaining amount owing to be refinanced.

(b) The amount of any refund credit.

(c) The difference between items (a) and (b), which is the net outstanding balance to be refinanced.

(d) Any additional cost of insurance and of official fees to the buyer.

(e) The sum of items (c) and (d), which is the amount financed.

(f) The finance charge (1) as expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(g) The number amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. Where there is a consolidation of two or more contracts then the provisions of Sections 1808.1 and 1808.2 shall apply. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (f) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

This section shall become operative on January 1, 1992.

SEC. 7. Section 1808.5 of the Civil Code is amended to read:

1808.5. Subject to the other provisions of Article 5 (commencing with Section 1805.1), the finance charge to be included in a consolidated total of payments under subdivision (*l*) of Section 1808.2 shall be determined by applying the finance charge at the applicable rate to the unpaid balance under subdivision (j) of Section 1808.2, for the period from the date of such consolidation to and including the date when the final installment of such consolidated total is payable.

This section shall be operative until January 1, 1992, and on that date is repealed.

SEC. 7.5. Section 1808.5 is added to the Civil Code, to read:

1808.5. Subject to the other provisions of Article 5 (commencing with Section 1805.1), the finance charge to be included in a consolidated total of payments under subdivision (*l*) of Section 1808.2 shall be determined by applying the finance charge at the applicable rate specified in that article to the unpaid balance under subdivision (j) of Section 1808.2, for the period from the date of such consolidation to and including the date when the final installment of such consolidated total is payable, provided, further, that such finance charge shall not include an administrative finance charge.

This section shall become operative on January 1, 1992.

SEC. 8. Section 1808.6 of the Civil Code is repealed.

SEC. 8.5. Section 1808.6 is added to the Civil Code, to read:

1808.6. The minimum finance charge as provided in either paragraph (2) or paragraph (3) of subdivision (a) of Section 1805.1 may be used but once in any series of add-on transactions.

This section shall become operative on January 1, 1992.

SEC. 9. Section 1810.2 of the Civil Code is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect a finance charge as disclosed to the buyer pursuant to Section 1810.3.

This section shall be operative until January 1, 1992, and on that date is repealed.

SEC. 9.5. Section 1810.2 is added to the Civil Code, to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive, and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1½ percent.

(b) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall be operative on January 1, 1992.

SEC. 10. The Legislative Analyst shall submit a report to the Legislature no later than March 31, 1991, on the change in consumer credit rates charged in California under this act. The report shall be based upon the data available during the operation of the act for the first two years following January 1, 1989.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 480

An act to amend Sections 9806 and 9880.2 of the Business and Professions Code, relating to electronic and appliance repair dealers.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 9806 of the Business and Professions Code is amended to read:

9806. An automobile dealer or manufacturer, licensed pursuant to Chapter 4 (commencing with Section 11700) of Division 5 of the Vehicle Code shall not be required to be registered under this chapter where such dealer or manufacturer installs or replaces a motor vehicle radio, antenna, or audio or video playback equipment as a function related to the sale or repair of a motor vehicle.

SEC. 2. Section 9880.2 of the Business and Professions Code is amended to read:

9880.2. The following persons are exempt from the requirement of registration:

(a) Any employee of an automotive repair dealer if the employee repairs motor vehicles only as an employee.

(b) Any person who solely engages in the business of repairing the motor vehicles of a single commercial, industrial, or governmental establishment, or two or more establishments related by common ownership or corporate affiliation.

(c) Any person who is registered pursuant to Chapter 20 (commencing with Section 9800) of Division 3 where the persons' work is limited to the installation or replacement of a motor vehicle radio, antenna, or audio or video playback equipment.

CHAPTER 481

An act to amend Section 116.2 of the Code of Civil Procedure, relating to courts.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 116.2 of the Code of Civil Procedure is amended to read:

116.2. The small claims division shall have jurisdiction in actions:

(a) Except as provided in subdivision (e), for recovery of money only where the amount of the demand does not exceed two thousand

dollars ($2,000) and effective January 1, 1991, two thousand five hundred dollars ($2,500).

(b) Except as provided in subdivision (e), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed two thousand dollars ($2,000) and effective January 1, 1991, two thousand five hundred dollars ($2,500), if the legality of the tax is not contested by the defendant.

(c) In unlawful detainer, after default in rent for residential property, where the term of tenancy is not greater than month to month and the amount of the demand does not exceed two thousand dollars ($2,000) and effective January 1, 1991, two thousand five hundred dollars ($2,500).

(d) To issue the writ of possession authorized by Section 1861.5 of the Civil Code where the amount of the demand does not exceed two thousand dollars ($2,000) and effective January 1, 1991, two thousand five hundred dollars ($2,500).

(e) However, the small claims division shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only where the demand does not exceed one thousand five hundred dollars ($1,500).

CHAPTER 482

An act to add Section 14613.5 to the Government Code, relating to state government.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 14613.5 is added to the Government Code, to read:

14613.5. The funeral detail of the California State Police Division shall present to the host agency or family member designated by the host agency of any peace officer who is killed in the line of duty in California, the flag which was flown at half-staff over the State Capitol Building in memory of the officer and a memorial certificate.

CHAPTER 483

An act to add Section 14672.85 to the Government Code, relating to public property, and making an appropriation therefor.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 14672.85 is added to the Government Code, to read:

14672.85. Notwithstanding Section 14670, the director, with the consent of the State Department of Mental Health, may let to East Valley Water District for the purpose of development and operation of a public golf course and park, and for a period not to exceed 30 years, real property not exceeding 90 acres located within the grounds of Patton State Hospital on those terms and conditions that are determined by the Director of Mental Health and by the Director of General Services to be in the best interest of the state and for rent that is not less than the fair market value of the land. The lease shall provide for renegotiation of the rent at 5-year intervals or at any more frequent interval determined by the Director of General Services and the Director of Mental Health to be in the best interest of the state.

The rent, fees, or proceeds collected in connection with the lease of property pursuant to this section shall be made available to the State Department of Mental Health for allocation to the Patient Benefits Fund of Atascadero, Camarillo, Metropolitan, Napa, and Patton State Hospitals in an amount not to exceed twenty thousand dollars ($20,000) annually per hospital, in accordance with Section 4125 of the Welfare and Institutions Code. Any additional amounts collected shall be deposited in the General Fund. Notwithstanding Section 13340, the moneys deposited in a patient benefits fund pursuant to this section are continuously appropriated, without regard to fiscal years, for patient benefits as provided in Section 4125 of the Welfare and Institutions Code.

CHAPTER 484

An act to amend Section 6140.5 of the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 6140.5 of the Business and Professions Code is amended to read:

6140.5. (a) The board may establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of the active members of the State Bar. Any payments from the fund shall be discretionary and shall be subject to such regulation and conditions as the board shall prescribe. The board may delegate the administration of the fund to the State Bar Court, or to any board or committee created by the board of governors.

(b) Commencing January 1, 1972, the board may increase the annual membership fees fixed by it pursuant to Section 6140 by an additional amount per active member not to exceed twenty-five dollars ($25) in any year, the additional amount to be applied only for the purposes of the fund and the costs of its administration, including, but not limited to, the costs of processing, determining, defending, or insuring claims against the fund.

(c) Upon making a payment to a person who has applied to the Client Security Fund for payment to relieve or mitigate pecuniary losses caused by the dishonest conduct of an active member of the State Bar, the State Bar of California is subrogated to the rights of that person against the attorney whose dishonest conduct caused the pecuniary loss, to the extent of the amount of the payment. The State Bar may bring an action against the attorney causing the pecuniary loss within three years from the date of payment to the applicant.

CHAPTER 485

An act to amend Section 240 of the Evidence Code, relating to witnesses.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 240 of the Evidence Code is amended to read:

240. (a) Except as otherwise provided in subdivision (b), "unavailable as a witness" means that the declarant is any of the following:

(1) Exempted or precluded on the ground of privilege from testifying concerning the matter to which his or her statement is relevant.

(2) Disqualified from testifying to the matter.

(3) Dead or unable to attend or to testify at the hearing because of then existing physical or mental illness or infirmity.

(4) Absent from the hearing and the court is unable to compel his or her attendance by its process.

(5) Absent from the hearing and the proponent of his or her statement has exercised reasonable diligence but has been unable to procure his or her attendance by the court's process.

(b) A declarant is not unavailable as a witness if the exemption, preclusion, disqualification, death, inability, or absence of the declarant was brought about by the procurement or wrongdoing of the proponent of his or her statement for the purpose of preventing the declarant from attending or testifying.

(c) Expert testimony which establishes that physical or mental trauma resulting from an alleged crime has caused harm to a witness of sufficient severity that the witness is physically unable to testify or is unable to testify without suffering substantial trauma may constitute a sufficient showing of unavailability pursuant to paragraph (3) of subdivision (a). As used in this section, the term "expert" means a physician and surgeon, including a psychiatrist, or any person described by subdivision (b), (c), or (e) of Section 1010.

The introduction of evidence to establish the unavailability of a witness under this subdivision shall not be deemed procurement of unavailability, in absence of proof to the contrary.

CHAPTER 486

An act to amend Section 710 of the Evidence Code, relating to witnesses.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 710 of the Evidence Code is amended to read:

710. Every witness before testifying shall take an oath or make an affirmation or declaration in the form provided by law, except that a child under the age of 10, in the court's discretion, may be required only to promise to tell the truth.

CHAPTER 487

An act to amend Section 2104 of the Code of Civil Procedure, relating to liens.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 2104 of the Code of Civil Procedure is amended to read:

2104. The fee charged for recording and indexing each notice of lien or certificate or notice affecting the lien filed with the county recorder shall be the same as those established by Article 5 (commencing with Section 27360) of Chapter 6 of Part 3 of Division 2 of Title 3 of the Government Code for the recording and indexing of documents.

The fee for filing and indexing each notice of lien or certificate or notice affecting the lien with the office of the Secretary of State is five dollars ($5).

The officer shall bill the district directors of internal revenue or other appropriate federal officials on a monthly basis for fees for documents recorded or filed by the county recorder or the Secretary of State.

CHAPTER 488

An act to amend Section 1010 of the Evidence Code, relating to psychotherapist-patient privilege.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 1010 of the Evidence Code is amended to read:

1010. As used in this article, "psychotherapist" means:

(a) A person authorized, or reasonably believed by the patient to be authorized, to practice medicine in any state or nation who devotes, or is reasonably believed by the patient to devote, a substantial portion of his or her time to the practice of psychiatry.

(b) A person licensed as a psychologist under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(c) A person licensed as a clinical social worker under Article 4 (commencing with Section 9040) of Chapter 17 of Division 3 of the

Business and Professions Code, when he or she is engaged in applied psychotherapy of a nonmedical nature.

(d) A person who is serving as a school psychologist and holds a credential authorizing such service issued by the state.

(e) A person licensed as a marriage, family and child counselor under Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(f) A person registered as a psychological assistant who is under the supervision of a licensed psychologist or board certified psychiatrist as required by Section 2913 of the Business and Professions Code, or a person registered as a marriage, family, and child counselor intern who is under the supervision of a licensed marriage, family, and child counselor, a licensed clinical social worker, a licensed psychologist, or a licensed physician certified in psychiatry, as specified in Section 4980.44 of the Business and Professions Code.

(g) A person registered as an apprentice clinical social worker who is under the supervision of a licensed clinical social worker, a licensed psychologist, or a board certified psychiatrist as required by Section 4996.17 of the Business and Professions Code.

(h) A person exempt from the Psychology Licensing Law pursuant to subdivision (d) of Section 2909 of the Business and Professions Code.

(i) A psychological intern as defined in Section 2911 of the Business and Professions Code.

(j) A trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, who is fulfilling his or her supervised practicum required by subdivision (b) of Section 4980.40 of the Business and Professions Code.

(k) There is no privilege under subdivisions (h), (i), and (j) in any criminal proceeding.

CHAPTER 489

An act to add Sections 533.5 and 533.7 to the Insurance Code, relating to insurance.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 533.5 is added to the Insurance Code, to read:

533.5. (a) No policy of insurance shall provide, or be construed to provide, any coverage or indemnity for the payment of any fine, penalty, or restitution in any civil or criminal action or proceeding brought by the Attorney General, any district attorney, or any city

prosecutor, notwithstanding whether the exclusion or exception regarding this type of coverage or indemnity is expressly stated in the policy.

(b) No policy of insurance shall provide, or be construed to provide, any duty to defend, as defined in subdivision (c), any claim in any civil or criminal action or proceeding in which the recovery of a fine, penalty, or restitution is sought by the Attorney General, any district attorney, or any city prosecutor, notwithstanding whether the exclusion or exception regarding the duty to defend this type of claim is expressly stated in the policy.

(c) For the purpose of this section, "duty to defend" means the insurer's right or obligation to investigate, contest, defend, control the defense of, compromise, settle, negotiate the compromise or settlement of, or indemnify for the cost of any aspect of defending any claim in any civil or criminal action or proceeding in which the insured expects or contends that (1) the insurer is liable or is potentially liable to make any payment on behalf of the insured or (2) the insurer will provide a defense for a claim even though the insurer is precluded by law from indemnifying that claim.

(d) Any provision in a policy of insurance which is in violation of subdivision (a) or (b) is contrary to public policy and void.

SEC. 2. Section 533.7 is added to the Insurance Code, to read:

533.7. Notwithstanding any other law, an insurer may defend a duly licensed physician or surgeon against any cause of action involving the performance of any act for which a physician's and surgeon's certificate is required.

SEC. 3. Section 1 does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 490

An act to amend Section 820.9 of the Government Code, relating to public liability.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 820.9 of the Government Code is amended to read:

820.9. Members of city councils, mayors, members of boards of supervisors, members of school boards, members of governing boards of other local public entities, members of locally appointed boards and commissions, and members of locally appointed or elected advisory bodies are not vicariously liable for injuries caused by the act or omission of the public entity or advisory body. Nothing in this section exonerates an official from liability for injury caused

by that individual's own wrongful conduct. Nothing in this section affects the immunity of any other public official.

CHAPTER 491

An act to amend Sections 53601 and 53635 of the Government Code, relating to local agency finances.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 53601 of the Government Code is amended to read:

53601. The legislative body of a local agency having money in a sinking fund of, or surplus money in, its treasury not required for the immediate necessities of the local agency may invest any portion of the money which it deems wise or expedient in the following; provided, however, that where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement authorized by this section, which at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, the Tennessee Valley

Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, a federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus money which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's surplus money, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposits issued by a nationally or state-chartered bank or a state or federal association (as defined by Section 5102 of the Financial Code) or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposits do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book-entry account may be used for book-entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, means securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Medium-term notes of a maximum of five years maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (*l*), inclusive, of this section and which comply with the investment restrictions of this article and Article 2 (commencing with Section 53630). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of

beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notwithstanding anything to the contrary contained in this section, Section 53635 or any other provision of law, moneys held by a trustee or fiscal agent and pledged to the payment or security of bonds or other indebtedness, or obligations under a lease, installment sale, or other agreement of a local agency, or certificates of participation in those bonds, indebtedness, or lease installment sale, or other agreements, may be invested in accordance with the statutory provisions governing the issuance of those bonds, indebtedness, or lease installment sale, or other agreement, or to the extent not inconsistent therewith or if there are no specific statutory provisions, in accordance with the ordinance, resolution, indenture, or agreement of the local agency providing for the issuance.

(m) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

SEC. 2. Section 53635 of the Government Code is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations or credit unions in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following provided however, that where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security, other than a security underlying a repurchase or reverse repurchase agreement authorized by this section, which at the time of the investment has a term remaining to maturity in excess of five years, unless the legislative body has granted express authority to make that investment either specifically or as a part of an investment program approved by the legislative body no less than three months prior to the investment:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property

owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30

percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certficates of deposit.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book entry account may be used for book entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, shall mean securities of the same issuer,

description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Medium-term notes of a maximum of five years' maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notes, bonds, or other obligations which are at all times secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

CHAPTER 492

An act to add Section 1270.1 to the Penal Code, relating to bail.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 1270.1 is added to the Penal Code, to read:

1270.1. Before any person arrested for a violent felony is released on bail, which bail is set in an amount which is either more or less than the amount contained in the schedule of bail for that felony, a hearing shall be held in open court before the magistrate or judge. The prosecuting attorney shall be given a two court-day written notice and an opportunity to be heard on the matter. The hearing required by this section shall be held within the time period prescribed in Section 825.

If the judge or magistrate sets the bail in an amount which is either more or less than the amount contained in the schedule of bail for that violent felony, the judge or magistrate shall state the reasons for that decision and shall address the issue of threats made against the victim or witness, if they were made, in the record. This statement shall be included in the record.

As used in this section, the term "violent felony" means any crime specified in subdivision (c) of Section 667.5.

CHAPTER 493

An act to amend Section 21083.5 of the Public Resources Code, relating to environmental quality.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 21083.5 of the Public Resources Code is amended to read:

21083.5. (a) The guidelines prepared and adopted pursuant to Section 21083 shall provide that, when an environmental impact statement has been, or will be, prepared for the same project pursuant to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and implementing regulations, or an environmental impact report has been, or will be, prepared for the same project pursuant to the requirements of the Tahoe Regional Planning Compact (Section 66801 of the Government Code) and implementing regulations, all or any part of

that statement or report may be submitted in lieu of all or any part of an environmental impact report required by this division, if that statement or report, or the part which is used, complies with the requirements of this division and the guidelines adopted pursuant thereto.

(b) Notwithstanding subdivision (a), compliance with this division may be achieved for the adoption in a city or county general plan, without any additions or change, of all or any part of the regional plan prepared pursuant to the Tahoe Regional Planning Compact and implementing regulations by reviewing environmental documents prepared by the Tahoe Regional Planning Agency addressing the plan, providing an analysis pursuant to this division of any significant effect on the environment not addressed in the environmental documents, and proceeding in accordance with Section 21081. This subdivision does not exempt a city or county from complying with the public review and notice requirements of this division.

CHAPTER 494

An act to add Section 66411.5 to the Government Code, relating to subdivisions.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 66411.5 is added to the Government Code, to read:

66411.5. (a) Notwithstanding any other provision of this division, whenever a parcel map or final map is required to effectuate a judicial partition of property pursuant to subdivision (b) and pursuant to Section 872.040 of the Code of Civil Procedure, the local agency approving the parcel map or final map may establish the amount of any monetary exaction or any dedication or improvement requirement authorized by law as a condition of approving the parcel map or final map, but shall not require payment of the exaction, the undertaking of the improvement, or posting of security for future performance thereof and shall not accept any required offer of dedication until the time specified in subdivision (b).

(b) This section applies to judicial partition of real property which is subject to a contract under Article 3 (commencing with Section 51240) of Chapter 7 of Part 1 of Division 1 of Title 5 and which will remain subject to that contract subsequent to the filing of the parcel map or final map. With respect to any parcel created by a parcel map or final map subject to this section, payment of exactions and acceptance of offers of dedication under this section shall be deferred

by the local agency until the contract terminates or is canceled as to that parcel, except that no deferral is required under this subdivision as to fees and assessments that are due and payable for governmental services provided to the parcel prior to termination or cancellation of the contract. The applicants for a parcel map or final map subject to this section shall be personally liable for performance of obligations deferred under this section at the time they become due.

CHAPTER 495

An act to amend Section 301 of, and to add Section 194.7 to, the Corporations Code, relating to corporations.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 194.7 is added to the Corporations Code, to read:

194.7. "Voting shift" means a change, pursuant to or by operation of a provision of the articles, in the relative rights of the holders of one or more classes or series of shares, voting as one or more separate classes or series, to elect one or more directors.

SEC. 2. Section 301 of the Corporations Code is amended to read:

301. (a) At each annual meeting of shareholders, directors shall be elected to hold office until the next annual meeting. However, to effectuate a voting shift (Section 194.7) the articles may provide that directors hold office for a shorter term. The articles may provide for the election of one or more directors by the holders of the shares of any class or series voting as a class or series.

(b) Each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

CHAPTER 496

An act relating to the Public Utilities Commission.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. (a) The Legislature finds and declares that both federal and California law require electrical corporations to contract with, and purchase electricity and electrical generating capacity

from, private energy producers pursuant to the administration of these provisions by the Public Utilities Commission. The Legislature recognizes that the business relationships resulting from these contracts are new and nontraditional business arrangements and that disputes between the parties have occurred in the conduct of these business relationships

(b) It is, therefore, the intent of the Legislature in enacting this act to require the commission to investigate and report on the feasibility of the establishment of procedures designed for expeditious and equitable resolutions of these disputes.

SEC. 2. (a) The Public Utilities Commission shall evaluate existing methods for resolving disputes between electrical corporations and private energy producers and alternatives to those existing methods, including, but not limited to, the use of economic disincentives, with a view to expediting the resolution of those disputes.

(b) The commission shall report to the Legislature on its findings and recommendations not later than June 1, 1989.

CHAPTER 497

An act to amend Sections 22602 and 22603 of the Education Code, relating to education.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 22602 of the Education Code is amended to read:

22602. Persons employed on a substitute basis, who are not already members when they become employed and who perform less than 100 complete days of service during the school year are excluded from membership in the system.

Persons employed on a substitute basis who have performed 100 or more complete days of substitute service in one school district or county superintendent's office in that school year shall become members on the first day of the following pay period during which such additional service was performed.

SEC. 2. Section 22603 of the Education Code is amended to read:

22603. Persons employed on a part-time basis who are not already members when they become employed, and who perform less than 60 hours of service per pay period or less than 10 days of service in a pay period on a daily basis, are excluded from membership in the system.

Persons employed on a part-time basis who have performed 60 or more hours of service in a pay period, or 10 days or more of service

in a pay period on a daily basis in one school district or county superintendent's office shall become members on the first day of the following pay period during which such additional service was performed.

CHAPTER 498

An act to amend Sections 798.71 and 798.72 of the Civil Code, relating to mobilehomes.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 798.71 of the Civil Code is amended to read:

798.71. (a) The management shall not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

(b) The management shall prohibit neither the listing nor the sale of a manufactured home or mobilehome within the park by the homeowner, or an agent of the homeowner other than the management, nor require the selling homeowner to authorize the management to act as the agent in the sale of a manufactured home or mobilehome as a condition of management's approval of the buyer or prospective homeowner for residency in the park.

Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

SEC. 2. Section 798.72 of the Civil Code is amended to read:

798.72. (a) The management shall not charge a homeowner or his or her agent a transfer or selling fee as a condition of a sale of his mobilehome within a park unless the management performs a service in the sale. The management shall not perform any such service in connection with the sale unless so requested, in writing, by the homeowner or his or her agent.

(b) The management shall not charge a prospective homeowner or his or her agent, upon purchase of a mobilehome, a fee as a condition of approval for residency in a park unless the management performs a specific service in the sale. The management shall not impose a fee, other than for a credit check in accordance with subdivision (b) of Section 798.74, for an interview of a prospective homeowner.

CHAPTER 499

An act to amend Sections 7386.8 and 7444.1 of the Business and Professions Code, relating to cosmetology, and making an appropriation therefor.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 7386.8 of the Business and Professions Code is amended to read:

7386.8. This article shall remain in effect only until January 1, 1992, and as of that date is repealed.

SEC. 2. Section 7444.1 of the Business and Professions Code is amended to read:

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

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

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

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

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

This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

CHAPTER 500

An act to amend Sections 6011, and 6012 of, and to add Section 6423 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 6011 of the Revenue and Taxation Code is amended to read:

6011. (a) "Sales price" means the total amount for which tangible personal property is sold or leased or rented, as the case may be, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold.

(2) The cost of materials used, labor or service cost, interest

charged, losses, or any other expenses.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(b) The total amount for which the property is sold or leased or rented includes all of the following:

(1) Any services that are a part of the sale.

(2) Any amount for which credit is given to the purchaser by the seller.

(3) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(c) "Sales price" does not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) The amount charged for property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The amount charged for labor or services rendered in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property, measured by a stated percentage of sales price or gross receipts, whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the purchase of the property is made.

(8) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

SEC. 2. Section 6012 of the Revenue and Taxation Code is amended to read:

6012. (a) "Gross receipts" mean the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(1) The cost of the property sold. However, in accordance with such rules and regulations as the board may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.

(2) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense.

(3) The cost of transportation of the property, except as excluded by other provisions of this section.

(4) The amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed pursuant to Part 2 (commencing with Section 7301) of this division.

(b) The total amount of the sale or lease or rental price includes all of the following:

(1) Any services that are a part of the sale.

(2) All receipts, cash, credits and property of any kind.

(3) Any amount for which credit is allowed by the seller to the purchaser.

(c) "Gross receipts" do not include any of the following:

(1) Cash discounts allowed and taken on sales.

(2) Sale price of property returned by customers when that entire amount is refunded either in cash or credit, but this exclusion shall not apply in any instance when the customer, in order to obtain the

refund, is required to purchase other property at a price greater than the amount charged for the property that is returned. For the purpose of this section, refund or credit of the entire amount shall be deemed to be given when the purchase price less rehandling and restocking costs are refunded or credited to the customer. The amount withheld for rehandling and restocking costs may be a percentage of the sales price determined by the average cost of rehandling and restocking returned merchandise during the previous accounting cycle.

(3) The price received for labor or services used in installing or applying the property sold.

(4) (A) The amount of any tax (not including, however, any manufacturers' or importers' excise tax, except as provided in subparagraph (B)) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.

(B) The amount of manufacturers' or importers' excise tax imposed pursuant to Section 4091 of the Internal Revenue Code for which the purchaser certifies that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid.

(5) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California upon or with respect to retail sales of tangible personal property measured by a stated percentage of sales price or gross receipts whether imposed upon the retailer or the consumer.

(6) The amount of any tax imposed by any city, county, city and county, or rapid transit district within the State of California with respect to the storage, use or other consumption in such city, county, city and county, or rapid transit district of tangible personal property measured by a stated percentage of sales price or purchase price, whether such tax is imposed upon the retailer or the consumer.

(7) Separately stated charges for transportation from the retailer's place of business or other point from which shipment is made directly to the purchaser, but the exclusion shall not exceed a reasonable charge for transportation by facilities of the retailer or the cost to the retailer of transportation by other than facilities of the retailer; provided, that if the transportation is by facilities of the retailer, or the property is sold for a delivered price, this exclusion shall be applicable solely with respect to transportation which occurs after the sale of the property is made to the purchaser.

(8) The amount of any motor vehicle, mobilehome, or commercial coach fee or tax imposed by and paid to the State of California that has been added to or is measured by a stated percentage of the sales or purchase price of a motor vehicle, mobilehome, or commercial coach.

For purposes of the sales tax, if the retailers establish to the satisfaction of the board that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total

amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed. Section 1656.1 of the Civil Code shall apply in determining whether or not the retailers have absorbed the sales tax.

SEC. 3. Section 6423 is added to the Revenue and Taxation Code, to read:

6423. (a) A purchaser certifying under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid shall do so in a form prescribed by the board.

(b) If the purchaser provides the certificate referred to in subdivision (a) and uses the diesel fuel in a manner that does not entitle the purchaser to a direct refund or credit against his or her income tax for the federal excise tax paid or if the purchaser does not receive such a refund or credit, the purchaser shall be liable for sales or use tax measured by the amount of federal excise tax paid to the extent the seller has not remitted sales or use tax measured by that amount. The certificate shall relieve the seller from liability for any sales or use tax due only if it is taken in good faith.

(c) Any person, including any officer or employee of a corporation, who certifies under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid on diesel fuel when that person knows at the time of purchase that he or she shall not be entitled to the refund or credit is liable to the state for the amount of sales or use tax that would be due if he or she had not so certified. In addition to the tax, interest, and other penalties, the person shall be liable to the state for a penalty of 10 percent of the tax or five hundred dollars ($500), whichever is greater, for purchases made for personal gain or to evade payment of taxes.

(d) Any person, including any officer or employee of a corporation, who, for the purpose of evading payment to the seller of a portion of the tax applicable to the transaction, certifies under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 that he or she is entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid on diesel fuel when that person knows at the time of purchase that he or she is not entitled to such a refund or credit is guilty of a misdemeanor punishable as provided in Section 7153.

SEC. 4. (a) With respect to sales of diesel fuel made during the period of April 1, 1988, through September 30, 1988, a purchaser entitled to either a direct refund or credit against his or her income tax for the federal excise tax paid may so certify to the seller of the diesel fuel not later than December 31, 1988, in a form prescribed by

the board.

(b) A seller receiving the certificate referred to in subdivision (a) may claim a refund or may claim credit on his or her return for the reporting period in which he or she receives the certificate with respect to sales or use tax reported by the seller which would not have been part of the sales price under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6011 or part of the gross receipts under subparagraph (B) of paragraph (4) of subdivision (c) of Section 6012 if Sections 1 and 2 of this act had been in effect on and after April 1, 1988. The seller shall return the amount of the refund or credit to the purchaser.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 3 of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 501

An act to amend Section 17920 of the Business and Professions Code, relating to fictitious name statements.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 17920 of the Business and Professions Code is amended to read:

17920. (a) Unless the statement expires earlier under subdivision (b) or (c), a fictitious business name statement expires five years from the date it was filed in the office of the county clerk.

(b) Except as provided in Section 17923, a fictitious business name statement expires 40 days after any change in the facts set forth in the statement pursuant to Section 17913, except that a change in the residence address of an individual, general partner, or trustee does not cause the statement to expire.

(c) A fictitious business name statement expires when the registrant files a statement of abandonment of the fictitious business name described in the statement.

CHAPTER 502

An act to amend Section 11743.1 of the Insurance Code, relating to workers' compensation.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 11743.1 of the Insurance Code is amended to read:

11743.1. An insurer may not change the classifications on a workers' compensation insurance policy if the change in classifications results in an increased premium unless one of the following is applicable:

(a) The insured, its agent, or its broker is notified during the affected policy period of the change in classifications during that policy period.

(b) The insured, its agent, or its broker agrees to the change in classifications.

(c) The insured, its agent, or its broker knew or, in the exercise of reasonable diligence, should have known that the classifications being changed were improper.

(d) The change in classifications was made with respect to a policy period as a result of a payroll audit or inspection for classification purposes initiated within one year after expiration of that policy period.

(e) The change in classifications was made pursuant to classification assignments published by a rating organization licensed pursuant to Article 3 (commencing with Section 11750) as applicable to the policyholder for the policy period or a prior policy period.

When an insurer changes the classifications on a workers' compensation insurance policy and the reclassification requires additional payments by the insured exceeding 25 percent of the insured's annual premium, the insurer shall offer the insured the option of making the payments in monthly installments over a one-year period commencing on the date the insurer notified the insured that additional payments were due. This offer shall not be required when the reclassification is as a result of a regulation adopted by the Department of Insurance or other action by or under the authority of the commissioner.

This section shall be inapplicable to a change in classification if the reason for the change is fraud or a material misrepresentation by or with the knowledge of the insured or if the insured fails to reasonably cooperate in a payroll audit or inspection for classification purposes.

CHAPTER 503

An act to add Section 6268 to the Government Code, relating to public records.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 6268 is added to the Government Code, to read:

6268. Public records, as defined in Section 6252, in the custody or control of the Governor when he or she leaves office, either voluntarily or involuntarily, shall, as soon as is practical, be transferred to the State Archives. Notwithstanding any other provision of law, the Governor, by written instrument, the terms of which shall be made public, may restrict public access to any of the transferred public records, or any other writings he or she may transfer, which have not already been made accessible to the public. With respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later, nor shall there be any restriction whatsoever with respect to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition in cases which have been closed for a period of at least 25 years. Subject to any restrictions permitted by this section, the Secretary of State, as custodian of the State Archives, shall make all such public records and other writings available to the public as otherwise provided for in this chapter.

Except as to enrolled bill files, press releases, speech files, or writings relating to applications for clemency or extradition, this section shall not apply to public records or other writings in the direct custody or control of any Governor who held office between 1974 and 1988 at the time of leaving office, except to the extent that that Governor may voluntarily transfer those records or other writings to the State Archives.

Notwithstanding any other provision of law, the public records and other writings of any Governor who held office between 1974 and 1988 may be transferred to any educational or research institution in California provided that with respect to public records, public access, as otherwise provided for by this chapter, shall not be restricted for a period greater than 50 years or the death of the Governor, whichever is later. No records or writings may be transferred pursuant to this paragraph unless the institution receiving them agrees to maintain, and does maintain, the materials according to commonly accepted archival standards. No public records transferred shall be destroyed by that institution without first receiving the written approval of the Secretary of State, as custodian

of the State Archives, who may require that the records be placed in the State Archives rather than being destroyed. An institution receiving those records or writings shall allow the Secretary of State, as custodian of the State Archives, to copy, at state expense, and to make available to the public, any and all public records, and inventories, indices, or finding aids relating to those records, which the institution makes available to the public generally. Copies of those records in the custody of the State Archives shall be given the same legal effect as is given to the originals.

CHAPTER 504

An act to amend Sections 2800.1, 13201 and 42001 of, and to amend, renumber, and add Section 2800.2 of, the Vehicle Code, relating to driving offenses, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 22, 1988.]

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

SECTION 1. Section 2800.1 of the Vehicle Code is amended to read:

2800.1. Any person who, while operating a motor vehicle and with the intent to evade, willfully flees or otherwise attempts to elude a pursuing peace officer's motor vehicle, is guilty of a misdemeanor if all of the following conditions exist:

(a) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front and the person either sees or reasonably should have seen the lamp.

(b) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.

(c) The peace officer's motor vehicle is distinctively marked.

(d) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

SEC. 1.5. Section 2800.1 of the Vehicle Code is amended to read:

2800.1. (a) It is unlawful for any person, while operating a motor vehicle and with the intent to evade, to willfully flee or otherwise attempt to elude a pursuing peace officer's motor vehicle under all of the following conditions:

(1) The peace officer's motor vehicle is exhibiting at least one lighted red lamp visible from the front, and the person either sees or reasonably should have seen the lamp.

(2) The peace officer's motor vehicle is sounding a siren as may be reasonably necessary.

(3) The peace officer's motor vehicle is distinctively marked.

(4) The peace officer's motor vehicle is operated by a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, and that peace officer is wearing a distinctive uniform.

(b) Every person convicted of a violation of subdivision (a) shall be punished by imprisonment in the state prison, or in the county jail for not more than one year, or by a fine of not more than ten thousand dollars ($10,000), or by both the imprisonment and fine.

SEC. 2. Section 2800.2 of the Vehicle Code is amended and renumbered to read:

2800.3. Whenever willful flight or attempt to elude a pursuing peace officer in violation of Section 2800.1 proximately causes death or serious bodily injury to any person, the person driving the pursued vehicle, upon conviction, shall be punished by imprisonment in the state prison for two, three, or four years or by imprisonment in the county jail for not more than one year, or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both that fine and imprisonment.

For purposes of this section, "serious bodily injury" is defined in paragraph (5) of subdivision (e) of Section 243 of the Penal Code.

SEC. 3. Section 2800.2 is added to the Vehicle Code, to read:

2800.2. If a person flees or attempts to elude a pursuing peace officer in violation of Section 2800.1 and the pursued vehicle is driven in a willful or wanton disregard for the safety of persons or property, the person driving the vehicle, upon conviction, shall be punished by imprisonment in the state prison, by imprisonment in the county jail for not more than one year, or by a fine of not less than one hundred seventy dollars ($170) nor more than two thousand dollars ($2,000), or by both that fine and imprisonment.

SEC. 4. Section 13201 of the Vehicle Code is amended to read:

13201. A court may suspend the privilege of any person to operate a motor vehicle, for a period not exceeding six months, upon conviction of any of the following offenses:

(a) Failure of the driver of a vehicle involved in an accident to stop or otherwise comply with the provisions of Section 20002.

(b) Reckless driving proximately causing bodily injury to any person under Section 23104.

(c) Failure of the driver of a vehicle to stop at a railway grade crossing as required by Section 22452.

(d) Evading a peace officer in violation of Section 2800.1, 2800.2, or 2800.3.

SEC. 5. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.3, 42001.5, 42001.7, 42001.8, or 42001.9, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 6. Section 1.5 of this bill incorporates amendments to Section 2800.1 of the Vehicle Code proposed by both this bill and SB 2566. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, but this bill becomes operative first, (2) each bill amends Section 2800.1 of the Vehicle Code, and (3) this bill is enacted after SB 2566, in which case Section 2800.1 of the Vehicle Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 2566, at which time Section 1.5 of this bill shall become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to deter evasions by motor vehicles of pursuing peace officer motor vehicles, which result in great hazard to the public, as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 505

An act to add Section 71607 to, and to repeal Sections 68083 and 71601 of, the Government Code, relating to courts.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 22, 1988]

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

SECTION 1. Section 68083 of the Government Code is repealed.

SEC. 2. Section 71601 of the Government Code is repealed.

SEC. 3. Section 71607 is added to the Government Code, to read:

71607. All justice courts are courts of record.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 5. Sections 1, 2, and 3 of this act shall become operative only if the electors adopt Assembly Constitutional Amendment No. 12 of the 1987–88 Regular Session of the Legislature, in which case they shall become operative when the provisions of that constitutional amendment become operative or on January 1, 1990, whichever is later.

CHAPTER 506

An act to add Section 48901.5 to the Education Code, relating to education.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 48901.5 is added to the Education Code, to read:

48901.5. (a) No school shall permit the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including, but not limited to, paging and signaling equipment, by pupils of the school while the pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees, without the prior consent of the principal or his or her designee. No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of a pupil and use of which is limited for purposes

related to the health of the pupil.

(b) The governing board of each school district shall take all steps it deems practical within existing resources to discourage pupils from possessing or using electronic signaling devices, except where the use of an electronic signaling device is essential for the health of a pupil.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 507

An act to amend Section 13401.5 of the Corporations Code, relating to professional corporations.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (c) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by such licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein and so long as the number of such licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.

(1) Licensed podiatrists.

(2) Licensed psychologists.

(3) Registered nurses.

(4) Licensed optometrists.

(5) Licensed marriage, family and child counselors.

(6) Licensed clinical social workers.

(7) Licensed physicians' assistants.

(b) Podiatry corporation.

(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Licensed optometrists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Registered nurses.
(4) Licensed optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(d) Speech pathology corporation.
(1) Licensed audiologist.
(e) Audiology corporation.
(1) Licensed speech pathologist.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Licensed psychologists.
(4) Licensed optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(7) Licensed physicians' assistants.
(g) Marriage, family and child counseling corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage, family and child counselors.
(4) Registered nurses.
(i) Physicians' assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.
(j) Optometric corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Licensed psychologists.
(4) Registered nurses.

CHAPTER 508

An act to amend Sections 110.5, 5008.5, and 12214.5 of the Corporations Code, relating to corporations.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 110.5 of the Corporations Code is amended to read:

110.5. The Secretary of State may cancel the filing of articles of a domestic corporation or the filing of a statement and designation by a foreign corporation if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give written notice of the applicability of this section and the cancellation date which shall be not less than 20 days from the date of mailing the written notice as certified by the Secretary of State, to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent before the date of cancellation as stated in the written notice of cancellation, the cancellation shall thereupon be effective. The written notice shall be given 70 days or less after the original filing.

SEC. 2. Section 5008.5 of the Corporations Code is amended to read:

5008.5. The Secretary of State may cancel the filing of articles if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give written notice of the applicability of this section and the cancellation date which shall be not less than 20 days from the date of mailing the written notice as certified by the Secretary of State, to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent before the date of cancellation as stated in the written notice of cancellation, the cancellation shall thereupon be effective. The written notice shall be given 70 days or less after the original filing.

SEC. 3. Section 12214.5 of the Corporations Code is amended to read:

12214.5. The Secretary of State may cancel the filing of articles if a check or other remittance accepted in payment of the filing fee or franchise tax is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give written notice

of the applicability of this section and the cancellation date which shall be not less than 20 days from the date of mailing the written notice as certified by the Secretary of State, to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent before the date of cancellation as stated in the written notice of cancellation, the cancellation shall thereupon be effective. The written notice shall be given 70 days or less after the original filing.

CHAPTER 509

An act to amend Section 5600.2 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 5600.2 of the Welfare and Institutions Code is amended to read:

5600.2. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which such a license is required, unless such person possesses a currently valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a). Additionally, the requirements of subdivision (a) may be waived by the department solely for persons in the professions of psychology, clinical social work, or marriage, family and child counseling who are gaining qualifying experience for licensure in the profession in this state.

(c) A waiver granted pursuant to subdivision (b) shall not exceed three years from commencement of employment in this state in the case of clinical social workers or marriage, family, and child counselors, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed as clinical social workers or marriage, family, and child counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(d) A waiver granted pursuant to subdivision (b) shall not exceed

two years from commencement of employment in this state in the case of psychologists, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed full time as a psychologist, the department may grant an extension of a waiver of licensure for an additional year, based upon extenuating circumstances as determined by the department. For persons employed less than full time as a psychologist, the department may grant an extension of a waiver of licensure for additional years proportional to the extent of part-time employment, based upon extenuating circumstances as determined by the department as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(e) However, the durational limitations upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage, family and child counseling or marital and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this section shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall, nevertheless, have one year from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated, provided that the employee shall take the licensure examination at the earliest possible date after the date of his or her employment, and if the employee does not pass the examination at that time, he or she shall have a second opportunity to pass the examination, subject to the one-year limit.

CHAPTER 510

An act to amend Section 2924e of the Civil Code, relating to real property.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 2924e of the Civil Code is amended to read:

2924e. (a) The beneficiary or mortgagee of any deed of trust or

mortgage on real property either containing one to four residential units or given to secure an original obligation not to exceed three hundred thousand dollars ($300,000) may, with the written consent of the trustor or mortgagor that is either effected through a signed and dated agreement which shall be separate from other loan and security documents or disclosed to the trustor or mortgagor in at least 10-point type, submit a written request by certified mail to the beneficiary or mortgagee of any lien which is senior to the lien of the requester, for written notice of any or all delinquencies of four months or more, in payments of principal or interest on any obligation secured by that senior lien notwithstanding that the loan secured by the lien of the requester is not then in default as to payments of principal or interest.

The request shall be sent to the beneficiary or mortgagee, or agent which it might designate for the purpose of receiving loan payments, at the address specified for the receipt of these payments, if known, or, if not known, at the address shown on the recorded deed of trust or mortgage.

(b) The request for notice shall identify the ownership or security interest of the requester, the date on which the interest of the requester will terminate as evidenced by the maturity date of the note of the trustor or mortgagor in favor of the requester, the name of the trustor or mortgagor and the name of the current owner of the security property if different from the trustor or mortgagor, the street address or other description of the security property, the loan number (if available to the requester) of the loan secured by the senior lien, the name and address to which notice is to be sent, and shall include or be accompanied by the signed written consent of the trustor or mortgagor, and a fee of forty dollars ($40). For obligations secured by residential properties, the request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the interest of the requester will terminate as specified in the request or the expiration date, as appropriate. For obligations secured by nonresidential properties, the request shall remain valid until withdrawn in writing and shall be applicable to all delinquencies as provided in this section, which occur prior to the date on which the interest of the requester will terminate as specified in the request or the expiration date, as appropriate. The beneficiary or mortgagee of obligations secured by nonresidential properties that have sent five or more notices prior to the expiration of the effective period of the request may charge a fee up to fifteen dollars ($15) for each subsequent notice. A request for notice shall be effective for five years from the mailing of the request or the recording of that request, whichever occurs later, and may be renewed within six months prior to its expiration date by sending the beneficiary or mortgagee, or agent, as the case may be, at the address to which original requests for notice are to be sent, a copy of the earlier request for notice together with a signed statement that the request

is renewed and a renewal fee of fifteen dollars ($15). Upon timely submittal of a renewal request for notice, the effectiveness of the original request is continued for five years from the time when it would otherwise have lapsed. Succeeding renewal requests may be submitted in the same manner. The request for notice and renewals thereof shall be recorded in the office of the county recorder of the county in which the security real property is situated. The rights and obligations specified in this section shall inure to the benefit of, or pass to, as the case may be, successors in interest of parties specified in this section. Any successor in interest of a party entitled to notice under this section shall file a request for that notice with any beneficiary or mortgagee of the senior lien and shall pay a processing fee of fifteen dollars ($15). No new written consent shall be required from the trustor or mortgagor.

(c) Unless the delinquency has been cured, within 15 days following the end of four months from any delinquency in payments of principal or interest on any obligation secured by the senior lien which delinquency exists or occurs on or after 10 days from the mailing of the request for notice or the recording of that request, whichever occurs later, the beneficiary or mortgagee shall give written notice to the requester of the fact of any delinquency and the amount thereof.

The notice shall be given by personal service, or by deposit in the mail, first-class postage paid. Following the recording of any notice of default pursuant to Section 2924 with respect to the same delinquency, no notice or further notice shall be required pursuant to this section.

(d) If the beneficiary or mortgagee of any such senior lien fails to give notice to the requester as required in subdivision (c), and a subsequent foreclosure or trustee's sale of the security property occurs, the beneficiary or mortgagee shall be liable to the requester for any monetary damage due to the failure to provide notice within the time period specified in subdivision (c) which the requester has sustained from the date on which notice should have been given to the earlier of the date on which the notice is given or the date of the recording of the notice of default under Section 2924, and shall also forfeit to the requester the sum of three hundred dollars ($300). A showing by the beneficiary or mortgagee by a preponderance of the evidence that the failure to provide timely notice as required by subdivision (c) resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error shall be a defense to any liability for that failure.

(e) If any beneficiary or mortgagee, or agent which it had designated for the purpose of receiving loan payments, has been succeeded in interest by any other person, any request for notice received pursuant to this section shall be transmitted promptly to that person.

(f) Any failure to comply with the provisions of this section shall not affect the validity of a sale in favor of a bona fide purchaser or

the rights of an encumbrancer for value and without notice.

(g) This section shall become operative on July 1, 1985, and shall remain in effect until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

The repeal of this section shall not affect the validity of requests for notice of delinquency filed before January 1, 1991.

CHAPTER 511

An act to amend Sections 3073 and 3074 of the Civil Code, and to amend Section 22851.12 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 3073 of the Civil Code is amended to read:

3073. The proceeds of a vehicle lien sale under this article shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the actual cost of selling the vehicle shall be paid to the lienholder. The cost of selling shall be the actual cost, not to exceed fifty dollars ($50) for each vehicle valued at one thousand dollars ($1,000) or less, or the actual cost, not to exceed one hundred dollars ($100) for each vehicle valued over one thousand dollars ($1,000).

(b) The balance, if any, shall be forwarded to the Department of Motor Vehicles within 15 days of any sale conducted pursuant to Section 3071 or within five days of any sale conducted pursuant to Section 3072 and deposited in the Motor Vehicle Account in the State Transportation Fund.

(c) Any person claiming an interest in the vehicle may file a claim with the Department of Motor Vehicles for any portion of the funds from the lien sale which were forwarded to the department pursuant to subdivision (b). Upon a determination of the Department of Motor Vehicles that the claimant is entitled to an amount from the balance deposited with the department, the department shall pay that amount determined by the department, which amount shall not exceed the amount forwarded to the department pursuant to subdivision (b) in connection with the sale of the vehicle in which the claimant claims an interest. The department shall not honor any claim unless the claim has been filed within three years of the date the funds were deposited in the Motor Vehicle Account.

SEC. 2. Section 3074 of the Civil Code is amended to read:

3074. The lienholder shall be able to recover the actual costs incurred in lien sale preparations from any person who redeems the vehicle prior to a lien sale conducted pursuant to this chapter. These

costs may commence and become part of the possessory lien when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles. This charge shall not be made in the case of any vehicle redeemed before the third day of possession, and shall not exceed fifty dollars ($50) for each vehicle valued at one thousand dollars ($1,000) or less, or one hundred dollars ($100) for each vehicle valued over one thousand dollars ($1,000).

SEC. 3. Section 22851.12 of the Vehicle Code is amended to read:

22851.12. The lienholder may recover the actual costs incurred in the processing for disposal of any vehicle, not to exceed fifty dollars ($50) in the case of a vehicle having a value determined to be one thousand dollars ($1,000) or less pursuant to Section 22670, and not to exceed one hundred dollars ($100) in the case of a vehicle having a value determined to be greater than one thousand dollars ($1,000), from any person who redeems the vehicle prior to disposal. These costs may commence and become part of the possessory lien when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles. This charge shall not be made in the case of any vehicle redeemed before the third day of possession.

CHAPTER 512

An act to amend Sections 12020 and 12029 of the Penal Code, relating to crime.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any metal knuckles, any sawed-off shotgun, any lipstick case knife, any nunchaku, any cane sword, any shobi-zue, any air guage knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a

felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains

title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(8) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(9) Instruments or devices, other than sawed-off shotguns, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(10) Instruments or devices, other than sawed-off shotguns, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (8) and (9) when engaging in transactions with those entities.

(c) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch

of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(7) As used in this section, "ballistic knife" means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(8) As used in this section, "camouflaging firearm container" means a container which meets all of the following:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(9) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 44 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 44 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(E) It has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.

(10) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(11) As used in this section, an "unconventional pistol" means a

pistol or revolver that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(12) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(13) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(14) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(15) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(16) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(17) As used in this section, a "air guage knife" means a device that appears to be an air guage but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(18) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any metal knuckles, any sawed-off shotgun, any lipstick case knife, any nunchaku, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device

as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The transportation, possession, or use of sawed-off shotguns by any peace officer listed in Section 830.1 or 830.2, while in the course and scope of his or her regular duties.

(2) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains

title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) The use or possession of firearms or ammunition by zookeepers, animal control officers, Department of Fish and Game personnel, or veterinarians in the course of their business to administer medicine, including, tranquilizer drugs, to animals.

(10) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instruments or devices are firearms, unloaded.

(11) Instruments or devices, other than sawed-off shotguns, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(12) Instruments or devices, other than sawed-off shotguns, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred in paragraphs (10) and (11) when engaging in transactions with those entities.

(c) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

As used in this section, a "sawed-off shotgun" does not include a firearm capable of firing shotgun ammunition with a rifled barrel or barrels of less than 18 inches in length and a bore of one-half inch or less in diameter.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may

be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body, with the exception of tranquilizer darts used within the scope of paragraph (9) of subdivision (b).

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(7) As used in this section, "ballistic knife" means a device that propels a knife-like blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(8) As used in this section, "camouflaging firearm container" means a container which meets all of the following:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(9) As used in this section, a "zip gun" means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 44 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 44 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an

explosion or other form of combustion.

(E) It has a barrel or barrels less than 18 inches in length or an overall length of less than 26 inches.

(10) As used in this section, a "shuriken" means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(11) As used in this section, an "unconventional pistol" means a pistol or revolver that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(12) As used in this section, a "belt buckle knife" is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(13) As used in this section, a "lipstick case knife" means a knife enclosed within and made an integral part of a lipstick case.

(14) As used in this section, a "cane sword" means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(15) As used in this section, a "shobi-zue" means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(16) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(17) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(18) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 3. Section 12029 of the Penal Code is amended to read:

12029. Except as provided in Section 12020, blackjacks, slungshots, billies, nunchakus, sandclubs, sandbags, metal knuckles, sawed-off shotguns as defined in Section 12020, and any other item which is listed in subdivision (a) of Section 12020 and is not listed in subdivision (a) of Section 12028 are nuisances. These weapons shall be subject to confiscation and summary destruction whenever found within the state. These weapons shall be destroyed in the same manner as other weapons described in Section 12028, except that upon the certification of a judge or of the district attorney that the

ends of justice will be subserved thereby, the weapon shall be preserved until the necessity for its use ceases.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 5. Section 2 of this bill incorporates, in substantial part, amendments to Section 12020 of the Penal Code proposed by both this bill and AB 771. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after AB 771, in which case Section 1 of this bill shall not become operative.

CHAPTER 513

An act to amend Section 509 of the Corporations Code, relating to corporations.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 509 of the Corporations Code is amended to read:

509. (a) A corporation may redeem any or all shares which are redeemable at its option by (1) giving notice of redemption, and (2) payment or deposit of the redemption price of the shares as provided in its articles or deposit of the redemption price pursuant to subdivision (d).

(b) Subject to any provisions in the articles with respect to the notice required for redemption of shares, the corporation may give notice of the redemption of any or all shares subject to redemption by causing a notice of redemption to be published in a newspaper of general circulation in the county in which the principal executive office of the corporation is located at least once a week for two

successive weeks, in each instance on any day of the week, commencing not earlier than 60 nor later than 20 days before the date fixed for redemption. The notice of redemption shall set forth all of the following:

(1) The class or series of shares or part of any class or series of shares to be redeemed.

(2) The date fixed for redemption.

(3) The redemption price.

(4) If the shares are certificated securities, the place at which the shareholders may obtain payment of the redemption price upon surrender of their share certificates.

(c) If the corporation gives notice of redemption pursuant to subdivision (b), it shall also mail a copy of the notice of redemption to each holder of record of shares to be redeemed as of the date of mailing or record date fixed in accordance with Section 701, addressed to the holder at the address of such holder appearing on the books of the corporation or given by the holder to the corporation for the purpose of notice, or if no such address appears or is given at the place where the principal executive office of the corporation is located, not earlier than 60 nor later than 20 days before the date fixed for redemption. Failure to comply with this subdivision does not invalidate the redemption of the shares.

(d) If, on or prior to any date fixed for redemption of redeemable shares, the corporation deposits with any bank or trust company in this state as a trust fund, (1) a sum sufficient to redeem, on the date fixed for redemption thereof, the shares called for redemption, (2) in the case of the redemption of any uncertificated securities, an officer's certificate setting forth the holders thereof registered on the books of the corporation and the number of shares held by each, and (3) irrevocable instructions and authority to the bank or trust company to publish the notice of redemption thereof (or to complete publication if theretofore commenced) and to pay, on and after the date fixed for redemption or prior thereto, the redemption price of the shares to their respective holders upon the surrender of their share certificates, in the case of certificated securities, or the delivery of the officer's certificate in the case of uncertificated securities, then from and after the date of the deposit (although prior to the date fixed for redemption) the shares called shall be redeemed and the dividends on those shares shall cease to accrue after the date fixed for redemption. The deposit shall constitute full payment of the shares to their holders and from and after the date of the deposit the shares shall no longer be outstanding and the holders thereof shall cease to be shareholders with respect to the shares and shall have no rights with respect thereto except the right to receive from the bank or trust company payment of the redemption price of the shares without interest, upon surrender of their certificates therefor, in the case of certificated securities, and any right to convert the shares which may exist and then continue for any period fixed by its terms.

In determining the holders of uncertificated securities, the bank

or trust company shall be entitled to rely on any officer's certificate deposited with it in accordance with this subdivision.

CHAPTER 514

An act to amend Sections 987.58, 987.59, and 987.60 of the Military and Veterans Code, relating to veterans.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 987.58 of the Military and Veterans Code is amended to read:

987.58. (a) If a veteran dies after filing an application for purchase of a farm or a home, and the veteran's eligibility and qualifications are subsequently approved, the veteran's surviving spouse may, in the discretion of the department, succeed to the veteran's rights under the application, and may succeed to the veteran's rights, privileges, and benefits under this article. The contract of purchase which the department otherwise would have made with the deceased veteran may be made with the surviving spouse.

(b) If a person was a member of the armed forces on active military duty, entered active duty while in the State of California and lived in this state for six months immediately preceding entry into active duty and was killed in line of duty while on active duty, that person is a veteran for purposes of this article, and his or her unremarried surviving spouse may file an application, is entitled to the same rights, privileges, and benefits, and may contract with the department pursuant to subdivision (a).

(c) If a member of the armed forces entered active military duty while in the State of California, lived in this state for six months or more immediately preceding entry into active duty, and is being held as a prisoner of war or has been designated by the armed forces as missing in action, that person is a veteran for purposes of this article, and his or her spouse may file an application, is entitled to the same rights, privileges, and benefits, and may contract with the department pursuant to subdivision (a).

SEC. 2. Section 987.59 of the Military and Veterans Code is amended to read:

987.59. When a veteran has been authorized by the department to select a farm or home, he or she shall submit that selection for approval, as the department prescribes.

SEC. 3. Section 987.60 of the Military and Veterans Code is amended to read:

987.60. (a) The department may acquire the farm or home from

its owner or may contract with a veteran for the construction of a dwelling house and other improvements for a farm or home, upon the terms agreed under all of the following terms and conditions:

(1) The department is satisfied of the desirability of the property submitted.

(2) The veteran has agreed with the department that he or she, or members of his or her immediate family, will actually reside on the property within 60 days from the date of purchase by the department, or, if the residence on the property is not complete on the date of purchase, within 60 days after the residence is completed, and will continue to reside on the property until all payments due the department have been paid or the farm or home is sold, except where the occupancy requirement is waived pursuant to Section 987.62.

(3) If the department is to contract with a veteran for the construction of a dwelling house and other buildings, or for the purchase of a mobilehome, all of the following are required:

(A) The veteran is the owner in fee of the real property on which the dwelling house and other buildings are to be constructed, or is the owner in fee of the real property or the owner of an undivided interest in common in a portion of a parcel of real property on which a mobilehome is to be situated, and agrees to convey that property to the department without cost.

(B) The veteran has paid a reasonable fee set by the department to cover the cost of any preliminary service of the department that may be necessary to process the application.

(C) The veteran has filed with the department adequate plans and specifications for the improvements to be constructed upon the real property, together with a contract, executed by a contractor licensed by the State of California for the construction of the improvements in accordance with the plans and specifications within eight months after the acquisition of the real property by the department, and a bond executed by the contractor providing for compliance with the terms of the contract and for the payment of persons furnishing material or labor on the job, executed by a surety company authorized to do business in the State of California.

(D) The plans, specifications, contract, and bond are approved by the department.

(E) The veteran has placed in escrow all sums of money to be advanced by him or her, where the cost is in excess of the maximum that may be expended by the department.

(b) As used in this section "immediate family" includes only the veteran's spouse, natural or adoptive dependent children, and parents only if the parents are dependent upon the veteran for 50 percent or more of their support.

CHAPTER 515

An act to amend Section 16028 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 16028 of the Vehicle Code is amended to read:

16028. (a) Every person who drives a motor vehicle required to be registered in this state upon a highway, or who drives a moped upon the highway, shall, when requested by a peace officer pursuant to subdivision (c) or (d), provide evidence of financial responsibility for the vehicle.

Except as otherwise provided in this subdivision and subdivisions (e) and (f), any person who violates this subdivision is guilty of an infraction and shall be punished for each offense by a fine of seventy-five dollars ($75) and an additional penalty assessment of twenty-five dollars ($25). If (1) the citation is issued pursuant to subdivision (c) on a notice to appear for violation of Section 23152, and (2) the driver is convicted of violating Section 23152, then the penalty upon conviction for violation of subdivision (a) is a fine of one hundred eighty dollars ($180) and an additional penalty assessment of sixty dollars ($60). Each defendant shall be fined and assessed a penalty assessment in the amount specified in this section, upon conviction, unless the court determines that in the interests of justice the fine and the penalty assessment should be reduced. Any reduction of the fine and penalty assessment shall be in the same proportion and the court shall state the reasons for reducing the fine and assessment on the record.

In lieu of the fine and penalty assessment otherwise assessable under this subdivision, the court may permit the defendant to perform community service designated by the court.

(b) (1) For purposes of this section, "evidence of financial responsibility" shall be in writing and means any of the following:

(A) The name of the insurance or surety company which issued the automobile liability policy, motor vehicle liability policy, or bond meeting the requirements of Section 16056, in effect for the vehicle, and the number of the insurance policy or surety bond.

(B) If the owner is a self-insurer as provided in Section 16052 or a depositor as provided in Section 16054.2, the certificate or deposit number issued by the department.

(C) An insurance covering note, as specified in Section 382 of the Insurance Code.

(D) A showing that the vehicle is owned or leased by, or under the direction of, the United States or any public entity, as defined in

Section 811.2 of the Government Code.

(2) For purposes of this section, "evidence of financial responsibility" also includes the identifying symbol issued to a highway carrier by the Public Utilities Commission pursuant to Section 3543 of the Public Utilities Code and displayed on the motor vehicle.

(3) For purposes of this section, "evidence of financial responsibility in writing" may be satisfied by writing the name of the insurance company or surety company and the policy number or surety bond number on the motor vehicle registration card issued by the Department of Motor Vehicles.

(c) Whenever a notice to appear is issued for any alleged violation of this code, except a violation specified in Chapter 9 (commencing with Section 22500) of Division 11 or any local ordinance adopted pursuant thereto, the cited driver shall furnish written evidence of financial responsibility, as defined by subdivision (b), upon request of the peace officer issuing the citation. The peace officer shall request and write the driver's evidence of financial responsibility on the notice to appear, except where the peace officer is unable to write the driver's evidence of financial responsibility on the notice to appear due to an emergency that requires his or her presence elsewhere. If the cited driver fails to provide evidence of financial responsibility at the time the notice to appear is issued, the peace officer may issue the driver a notice to appear for violation of subdivision (a). The notice to appear for violation of subdivision (a) shall be written on the same citation form as the original violation.

(d) Whenever a peace officer is summoned to the scene of an accident, the driver of any motor vehicle which is in any manner involved in the accident, shall furnish written evidence of financial responsibility as defined by subdivision (b), upon the request of the peace officer making the report. If the driver fails to provide evidence of financial responsibility when requested, the peace officer may issue the driver a notice to appear for violation of subdivision (a).

(e) A person cited in a notice to appear for violation of subdivision (a) may personally appear before the clerk of the court, as designated in the notice to appear, and provide written evidence of financial responsibility in a form consistent with Section 16028.4 showing that the driver was in compliance with Section 16020 at the time the notice to appear for violating subdivision (a) was issued. In lieu of a personal appearance, the person may submit written evidence of financial responsibility by mail to the court. Upon receipt by the clerk of written evidence of financial responsibility in a form consistent with Section 16028.4, further proceedings on the notice to appear for the violation of subdivision (a) of Section 16028 shall be dismissed, subject to Section 16031.

(f) If a driver cited for a violation of subdivision (a) is, at the time of issuance of the notice to appear, driving a motor vehicle owned, operated, or leased by the employer of the driver and driven with

the permission of the employer, this section and Sections 16031 and 16032 apply to the employer rather than the driver. In that case, the notice to appear shall be issued to the employer, rather than the driver, and the driver may sign the notice to appear on behalf of the employer and shall notify the employer of the citation within five days after the issuance thereof.

(g) Penalty assessments collected pursuant to subdivision (a) shall be deposited in the county's Courthouse Temporary Construction Fund established pursuant to Section 76001, 76002, 76003, 76004, 76005, or 76006 of the Government Code.

(h) Any penalty assessment imposed pursuant to any other provision of law shall not be imposed on the additional penalty assessment provided in subdivision (a).

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

CHAPTER 516

An act to add Section 959.1 to the Penal Code, relating to criminal procedure.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988]

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

SECTION 1. Section 959.1 is added to the Penal Code, to read:

959.1. (a) Notwithstanding Sections 740, 806, 949, and 959 or any other provision of the law to the contrary, a criminal prosecution may be commenced by filing an accusatory pleading in electronic form with the magistrate or in a court having authority to receive it.

(b) As used in this section, accusatory pleadings include, but are not limited to, the complaint, the information, the indictment, and any citation or notice to appear issued on a form approved by the Judicial Council.

(c) A magistrate or court is authorized to receive and file an accusatory pleading in electronic form if all of the following conditions are met:

(1) The accusatory pleading is issued in the name of and transmitted by a public prosecutor or by a law enforcement agency filing pursuant to Chapter 5c (commencing with Section 853.5) or Chapter 5d (commencing with Section 853.9).

(2) The magistrate or court has the facility to electronically store the accusatory pleading for the statutory period of record retention.

(3) The magistrate or court has the ability to reproduce the accusatory pleading in physical form upon demand and payment of any costs involved.

An accusatory pleading shall be deemed to have been filed when it has been received by the magistrate or court.

When transmitted in electronic form, the accusatory pleading shall be exempt from any requirement that it be subscribed by a natural person. It is sufficient to satisfy any requirement that an accusatory pleading, or any part of it, be sworn to before an officer entitled to administer oaths, if the pleading, or any part of it, was in fact sworn to and the electronic form indicates which parts of the pleading were sworn to and the name of the officer who administered the oath.

(4) Notwithstanding any other provision of law, a notice of parking violation or a notice to appear may be received and filed by court in electronic form, if the following conditions are met:

(A) The notice of parking violation is issued and transmitted by a law enforcement agency prosecuting pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(B) The court has the facility to electronically store the data elements of the notice of parking violation for the statutory period of record retention and to produce those data elements in printed form upon demand and payment of any costs involved.

(C) The issuing agency has the ability to reproduce the notice of parking violation in physical form upon demand and payment of any costs involved, as provided in Section 40206.5 of the Vehicle Code.

CHAPTER 517

An act to amend Section 10474 of the Business and Professions Code, relating to real estate, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 10474 of the Business and Professions Code is amended to read:

10474. Notwithstanding any other provision of this chapter and regardless of the number of persons aggrieved or parcels of real estate involved in a transaction or the number of judgments against a licensee, the liability of the Recovery Account shall not exceed the following amounts:

(a) For causes of action which occurred on or after July 1, 1964, and prior to January 1, 1975, ten thousand dollars ($10,000) for any one transaction and twenty thousand dollars ($20,000) for any one licensee.

(b) For causes of action which occurred on or after January 1, 1975, and prior to January 1, 1980, ten thousand dollars ($10,000) for

any one transaction and forty thousand dollars ($40,000) for any one licensee.

(c) For causes of action which occurred on or after January 1, 1980, twenty thousand dollars ($20,000) for any one transaction and one hundred thousand dollars ($100,000) for any one licensee.

(d) When multiple licensed real estate personnel are involved in a transaction and the individual conduct of two or more of the licensees results in a judgment meeting the requirements of subdivision (a) of Section 10471, the claimant may seek recovery from the Recovery Account based on the judgment against any of the licensed real estate personnel, subject to the limitations of this section and subparagraph (E) of paragraph (7) of subdivision (c) of Section 10471.

SEC. 2. The Legislature finds and declares that Section 1 of this act, adding subdivision (d) to Section 10474 of the Business and Professions Code, is declaratory and a codification of existing law as exemplified in the case of Edmonds v. Augustyn, 193 Cal. App. 3d 1056, and is not intended to overturn the cases of Fox v. Prime Ventures, Ltd., 86 Cal. App. 3d 333, and Deas v. Knapp, 29 Cal. 3d 69.

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

In order that claims may be recovered from the Recovery Account pursuant to law and this act as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 518

An act to repeal and add Chapter 19.5 (commencing with Section 9790) of Division 3 of the Business and Professions Code, relating to aircraft repair.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Chapter 19.5 (commencing with Section 9790) of Division 3 of the Business and Professions Code, is repealed.

SEC. 2. Chapter 19.5 (commencing with Section 9790) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 19.5. AIRCRAFT REPAIR

9790. As used in this chapter, the following definitions apply:

(a) "Customer" means any person who requests a repairperson to

do work on a general aviation aircraft which is in the possession of that person.

(b) "Repairperson" means any person engaged in the business of repairing general aviation aircraft.

(c) "General aviation" means all aviation with the exception of air carrier and military aviation.

9791. This chapter applies only to work done on a general aviation aircraft with an estimated cost of one hundred dollars ($100) or more.

9792. Notwithstanding any other provision of law, a repairperson has no lien on a general aviation aircraft under this chapter for compensation for services rendered to the aircraft, unless the repairperson has complied with this chapter.

9793. No repairperson shall commence work for compensation without specific authorization from the customer or his or her agent in accordance with all of the following requirements:

(a) The repairperson shall give to the customer either of the following:

(1) A written estimated price for labor and parts for a specific job.

(2) A written estimate of the maximum cost for a specific job which does not differentiate between labor and parts, but which shall not be exceeded by the actual cost of the job, including labor and parts.

No work shall be done or parts supplied in excess of, or different from, the original written estimate without the separate oral or written consent of the customer. If the consent is oral, the repairperson shall make a notation on the work order and on the invoice of the date, time, name of person authorizing the additional work or change in work, and the telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost.

(b) If it is necessary to disassemble a general aviation aircraft or its component in order to prepare a written estimated price for required work, the repairperson shall first give the customer a written estimated price for the disassembly and reassembly. The estimate shall also include the cost of parts and necessary labor to replace items such as gaskets and seals that are normally destroyed by disassembling the component. If the disassembling might prevent the restoration of the component to its former condition, the repairperson shall write that information on the work order containing the estimate before the work order is signed by the customer.

The repairperson shall inform the customer orally, and conspicuously in writing on the work order, of the maximum time it will take the repairperson to reassemble the aircraft or its component if the customer elects not to proceed with the work. The repairperson shall not charge the customer for more time than the specified maximum time if the customer elects not to proceed with the work.

After the disassembling has been performed, the repairperson shall prepare a written estimated price for labor and parts necessary for the requested work. Before performing the requested work, the repairperson shall obtain the customer's authorization to either perform the work or to reassemble the aircraft or its components.

(c) When the customer is unable to deliver the aircraft to the repairperson during business hours, and the customer has requested the repairperson to take possession of the aircraft for the purpose of performing work on the aircraft or estimating the cost of the work, the repairperson shall not undertake work on the aircraft for compensation unless the repairperson has done all of the following:

(1) The repairperson has prepared a work order stating the written estimated price for labor and parts necessary to perform the work.

(2) By telephone or otherwise, the customer has been given all of the information on the work order, and the customer has approved the work order.

(3) The customer has given oral or written authorization to the repairperson to make the repairs pursuant to the work order.

If the authorization is oral, the repairperson shall make, on both the work order and the invoice, a notation of the name of the customer, the date, the time, and the telephone number called, if any.

9794. Any repairperson who gives an original estimate in good faith, shall not be obligated to complete a job within the quoted or written estimated price if additional, unforeseen work is necessary to complete the job and the customer refuses to consent to payment for the cost of that additional work.

9795. All work done by a repairperson, including all warranty work, shall be recorded on an invoice and shall describe all work done and parts supplied.

Work and parts shall be listed separately on the invoice, which shall also state separately the subtotal prices for work and for parts, not including sales tax, and shall state separately the sales tax, if any, applicable to each.

If any used, rebuilt, or reconditioned parts are supplied, the invoice shall clearly state that fact. If a part of a component system is composed of new and used, rebuilt, or reconditioned parts, the invoice shall clearly state that fact.

One copy of the invoice shall be given to the customer and one copy shall be retained by the repairperson.

9796. The invoice shall show the repairperson's business name and address.

If the repairperson's telephone number is on the invoice, it shall be the telephone number that appears in any advertisement or on an advertising sign, and shall be the same number as that listed for the repairperson's firm name and address in the telephone directory, or on the telephone company records if the number is assigned to the repairperson subsequent to the publication of the telephone

directory.

9797. Notwithstanding any provision to the contrary, upon authorization from the customer as to a specific job, a repairperson may work on a aircraft on a time and materials basis.

9798. (a) This chapter does not apply to a general aviation aircraft in distress which is in need of immediate work critical to its preservation and safety, for which consent cannot expeditiously be obtained.

(b) This section does not include any situation or accident caused to the aircraft by the negligence or conduct of the repairperson or the repairperson's agent.

CHAPTER 519

An act to amend Section 61601.10 of the Government Code, relating to community services districts.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 61601.10 of the Government Code is amended to read:

61601.10. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, or the Big River Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land for which the county has authorized development.

SEC. 1.5. Section 61601.10 of the Government Code is amended

to read:

61601.10. In addition to the powers which may be exercised pursuant to Section 61600, whenever the Board of Directors of the El Dorado Hills Community Services District, the Salton Community Services District, the Stallion Springs Community Services District, the Lake Shastina Community Services District, or the Big River Community Services District determines by resolution, entered in the minutes, that it is feasible, economically sound, and in the public interest, and if a majority of the voters voting on the proposition vote in favor of the adoption of the additional purpose pursuant to Section 61601, the district may enforce the covenants, conditions, and restrictions adopted for each tract within the boundaries of the district, and assume the duties of the architectural control committee for each tract within the boundaries of the district and for other tracts as may be annexed from time to time, for the purpose of maintaining uniform standards of development within the district as adopted in the covenants, conditions, and restrictions. However, the district shall exercise the duties of an architectural control committee for any tract only to the extent authorized by the covenants, conditions, and restrictions applicable to the tract.

The power to carry on that activity may be divested in the same manner as the power was acquired.

For the purposes of this section, "tract" means any parcel of land for which the county has authorized development.

SEC. 2. The Legislature finds and declares that the Stallion Springs Community Services District has a special need to exercise the powers set forth in this act. The Legislature further finds and declares that this need is not common to all districts formed under the Community Services District Law. It is, therefore, hereby declared that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the Constitution, and that the enactment of this act as a special law, is necessary for the solution of problems existing in the Stallion Springs Community Services District.

SEC. 2.5. Section 1.5 of this bill incorporates amendments to Section 61601.10 of the Government Code proposed by both this bill and SB 2670. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 61601.10 of the Government Code, and (3) this bill is enacted after SB 2670, in which case Section 1 of this bill shall not become operative.

CHAPTER 520

An act to amend Section 1279.5 of, and to repeal Section 978.5 of, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 978.5 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 1279.5 of the Unemployment Insurance Code is amended to read:

1279.5. (a) Notwithstanding Section 1252 or 1252.2 or any other provision of this part, for the purposes of this section an individual is "unemployed" in any week if the individual works less than his or her normal weekly hours of work for the individual's regular employer, and the director finds that the regular employer has reduced or restricted the individual's normal hours of work, or has rehired an individual previously laid off and reduced that individual's normal hours of work from those previously worked, as the result of a plan by the regular employer to, in lieu of layoff, reduce employment and stabilize the work force by a program of sharing the work remaining after a reduction in total hours of work and a corresponding reduction in wages of at least 10 percent. The application for approval of a plan shall require the employer to briefly describe the circumstances requiring the use of work sharing to avoid a layoff. Normal weekly hours of work means the number of hours in a week that the employee normally would work for the regular employer or 40 hours, whichever is less. The plan must involve the participation of at least two employees and include not less than 10 percent of the employer's regular permanent work force involved in the affected work unit or units in each week, or in at least one week of a two-consecutive-week period. A plan approved by the director shall expire six months after the effective date of the plan.

(b) Except as otherwise provided in this section, each individual eligible under this chapter who is "unemployed" in any week shall be paid with respect to that week a weekly shared work unemployment compensation benefit amount equal to the percentage of reduction of the individual's wages resulting from an approved plan, rounded to the nearest 5 percent, multiplied by the individual's weekly benefit amount.

(c) No individual who receives any benefits under this section during any benefit year shall receive any benefits pursuant to Section 1252 or 1252.2 as a partially unemployed individual with respect to any week during such benefit year while in employment status with the regular employer who initiated the program of sharing work

under this section. No benefits under this section shall be payable on any type of extended claim.

(d) Any amount payable under this section shall be reduced by the amount of any and all compensation payable for personal services whether performed as an employee or an independent contractor or as a juror or as a witness, except compensation payable by the regular employer under a shared work plan.

For the purposes of this subdivision, "regular employer" may include, pursuant to an approved plan, a labor organization which periodically employs individuals in accordance with a collective bargaining agreement.

(e) The benefit payment under this section, if not a multiple of one dollar ($1), shall be increased to the next higher multiple of one dollar ($1).

(f) Sections 1253.5 and 1279 shall not apply to any individual eligible for any payment under this section.

(g) For the purposes of this section, an individual shall not be disqualified under subdivision (c) of Section 1253 for any week if both of the following conditions exist:

(1) The individual has not been absent from work without the approval of the regular employer.

(2) The individual accepted all work the regular employer made available to the individual during hours scheduled off due to the work-sharing plan.

(h) Except as otherwise provided by or inconsistent with this section, all provisions of this division and authorized regulations apply to benefits under this section. Authorized regulations may, to the extent permitted by federal law, make such distinctions and requirements as may be necessary in the procedures and provisions applicable to unemployed individuals to carry out the purposes of this section, including regulations defining normal hours, days, workweek, and wages.

(i) Employees shall not be eligible to receive any benefits under this section unless their employer agrees, in writing, and their bargaining agent pursuant to any applicable collective bargaining agreement agrees, in writing, to voluntarily participate in the shared work unemployment insurance benefit program created by this section.

(j) Notwithstanding Section 1327, the department shall not be required to notify an employer of additional claims which result from an approved plan submitted by the employer under which benefits are not paid in each week.

(k) The director may terminate a shared work plan for good cause if the plan is not being carried out according to its terms and intent.

CHAPTER 521

An act to amend Sections 10152 and 10177 of the Business and Professions Code, relating to real estate, and making an appropriation therefor.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 10152 of the Business and Professions Code is amended to read:

10152. The commissioner may require any other proof he or she may deem advisable concerning the honesty and truthfulness of any applicant for a real estate license, or of the officers, directors, or persons owning more than 10 percent of the stock, of any corporation making application therefor, before authorizing the issuance of a real estate license. For this purpose the commissioner may call a hearing in accordance with this part relating to hearings. To assist in his or her determination the commissioner shall require every original applicant to be fingerprinted.

SEC. 2. Section 10177 of the Business and Professions Code is amended to read:

10177. The commissioner may suspend or revoke the license of any real estate licensee, or may deny the issuance of a license to an applicant, who has done, or may suspend or revoke the license of, or deny the issuance of a license to, a corporate applicant if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done, any of the following:

(a) Procured, or attempted to procure, a real estate license or license renewal, for himself or herself or any salesperson, by fraud, misrepresentation or deceit, or by making any material misstatement of fact in an application for a real estate license, license renewal or reinstatement.

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of an order granting probation following that conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing that licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

(c) Knowingly authorized, directed, connived at or aided in the publication, advertisement, distribution, or circulation of any material false statement or representation concerning his or her business, or any business opportunity or any land or subdivision (as defined in Chapter 1 (commencing with Section 11000) of Part 2)

offered for sale.

(d) Willfully disregarded or violated any of the provisions of the Real Estate Law (Part 1 (commencing with Section 10000) or of Chapter 1 (commencing with Section 11000) of Part 2 or of the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000) of Part 2.

(e) Willfully used the term "realtor" or any trade name or insignia of membership in any real estate organization of which the licensee is not a member.

(f) Acted or conducted himself or herself in a manner which would have warranted the denial of his or her application for a real estate license, or has either had a license denied or a license issued by another agency of this state, another state, or the federal government, revoked or suspended for acts which if done by a real estate licensee would be grounds for the suspension or revocation of a California real estate license; provided, however, that the action of denial, revocation, or suspension by the other agency or entity was taken only after giving the licensee or applicant fair notice of the charges, an opportunity for a hearing, and other due process protections comparable to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), and only upon an express finding of a violation of law by the agency or entity.

(g) Demonstrated negligence or incompetence in performing any act for which he or she is required to hold a license.

(h) If, as a broker licensee, failed to exercise reasonable supervision over the activities of his or her salespersons or as the officer designated by a corporate broker licensee, failed to exercise reasonable supervision and control of the activities of the corporation for which a real estate license is required.

(i) Has used his or her employment by a governmental agency in a capacity giving access to records, other than public records, in such manner as to violate the confidential nature of the records.

(j) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(*l*) Solicited or induced the sale, lease, or the listing for sale or lease, of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools, due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry, or national origin.

(m) Violated any of the provisions of the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or any regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated any of the provisions of the Corporations Code or of the regulations of the Commissioner of Corporations relating to securities as specified in Section 25206 of the Corporations Code.

The commissioner may not deny or suspend the license of a corporate real estate broker if the offending officer, director, or stockholder has been completely disassociated from any affiliation or ownership in the corporation.

SEC. 3. The sum of fifty-four thousand dollars ($54,000) is appropriated from the Real Estate Fund to the Department of Real Estate for purposes of this act for the period of January 1, 1989, to June 30, 1989, inclusive.

CHAPTER 522

An act to amend Section 798.74 of the Civil Code, relating to mobilehomes.

[Approved by Governor August 22, 1988 Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 798.74 of the Civil Code is amended to read:

798.74. (a) The management may require the right of prior approval of a purchaser of a mobilehome that will remain in the park and that the selling homeowner or his or her agent give notice of the sale to the management before the close of the sale. Approval cannot be withheld if the purchaser has the financial ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. In determining whether the purchaser has the financial ability to pay the rent and charges of the park, the management shall not require the purchaser to submit copies of any personal income tax returns in order to obtain approval for residency in the park. However, management may require the purchaser to document the amount and source of his or her gross monthly income or means of financial support. If the ownership or management rejects a purchaser as a prospective homeowner, the ownership or management shall inform the selling homeowner in writing of its reasons for the rejection. If the approval of a purchaser is withheld for any reason other than those stated in this article, the management or owner may be held liable for all damages proximately resulting therefrom.

(b) If the management collects a fee or charge from a prospective purchaser of a mobilehome in order to obtain a financial report or credit rating, the full amount of the fee or charge shall be credited toward payment of the first month's rent for that mobilehome purchaser. If, for whatever reason, the prospective purchaser is

rejected by the management, the management shall refund to the prospective purchaser the full amount of that fee or charge within 30 days from the date of rejection. If the prospective purchaser is approved by the management, but, for whatever reason, the prospective purchaser elects not to purchase the mobilehome, the management may retain the fee, or a portion thereof, to defray its administrative costs under this section.

CHAPTER 523

An act to add Section 5008.8 to the Public Resources Code, relating to peace officer training.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 5008.8 is added to the Public Resources Code, to read:

5008.8. After January 1, 1989, every peace officer authorized pursuant to Section 5008, shall have satisfactorily completed, prior to the date he or she is first designated a peace officer, the basic training course established by the Commission on Peace Officer Standards and Training.

CHAPTER 524

An act to amend Section 647 of the Penal Code, relating to crimes.

[Approved by Governor August 22, 1988. Filed with Secretary of State August 23, 1988.]

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

SECTION 1. Section 647 of the Penal Code is amended to read:

647. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

(a) Who solicits anyone to engage in or who engages in lewd or dissolute conduct in any public place or in any place open to the public or exposed to public view.

(b) Who solicits or who agrees to engage in or who engages in any act of prostitution. A person agrees to engage in an act of prostitution when, with specific intent to so engage, he or she manifests an acceptance of an offer or solicitation to so engage, regardless of whether the offer or solicitation was made by a person who also possessed the specific intent to engage in prostitution. No agreement

to engage in an act of prostitution shall constitute a violation of this subdivision unless some act, beside the agreement, be done within this state in furtherance of the commission of an act of prostitution by the person agreeing to engage in that act. As used in this subdivision, "prostitution" includes any lewd act between persons for money or other consideration.

(c) Who accosts other persons in any public place or in any place open to the public for the purpose of begging or soliciting alms.

(d) Who loiters in or about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or any unlawful act.

(e) Who loiters or wanders upon the streets or from place to place without apparent reason or business and who refuses to identify himself or herself and to account for his or her presence when requested by any peace officer so to do, if the surrounding circumstances are such as to indicate to a reasonable person that the public safety demands such identification.

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in such a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(ff) When a person has violated subdivision (f) of this section, a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. Such person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force which would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. No person who has been placed in civil protective custody shall thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to such placement. This subdivision shall not apply to the following persons:

(1) Any person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) Any person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f) of this section.

(3) Any person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(g) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the

owner or occupant thereof. As used in this subdivision, "loiter" means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(h) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of any inhabited building or structure located thereon, without visible or lawful business with the owner or occupant thereof.

(i) Who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control thereof.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been once previously convicted of a violation of that subdivision, the previous conviction shall be charged in the accusatory pleading; and, if the previous conviction is found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 45 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 45 days in the county jail. In all cases in which probation is granted the court shall require as a condition thereof that such person be confined in the county jail for at least 45 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 45 days in confinement in the county jail.

In any accusatory pleading charging a violation of subdivision (b) of this section, if the defendant has been previously convicted two or more times of a violation of that subdivision, each such previous conviction shall be charged in the accusatory pleading; and, if two or more of such previous convictions are found to be true by the jury, upon a jury trial, or by the court, upon a court trial, or are admitted by the defendant, the defendant shall be imprisoned in the county jail for a period of not less than 90 days and shall not be eligible for release upon completion of sentence, on probation, on parole, on work furlough or work release, or on any other basis until he or she has served a period of not less than 90 days in the county jail. In all cases in which probation is granted the court shall require as a condition thereof that such person be confined in the county jail for at least 90 days. In no event does the court have the power to absolve a person who violates this subdivision from the obligation of spending at least 90 days in confinement in the county jail.

CHAPTER 525

An act to amend Section 1504 of the Fish and Game Code, relating to fish and game.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 1504 of the Fish and Game Code is amended to read:

1504. (a) When income is derived directly from real property acquired and operated by the state as wildlife management areas, and regardless of whether income is derived from property acquired after October 1, 1949, the department shall pay annually to the county in which the property is located an amount equal to the county taxes levied upon the property at the time title to the property was transferred to the state. The department shall also pay the assessments levied upon the property by any irrigation, drainage, or reclamation district.

(b) Any delinquent penalties or interest applicable to any such assessments made prior to September 9, 1953, are hereby canceled and shall be waived.

(c) Payments provided by this section shall be from funds available to the department.

(d) As used in this section, the term "wildlife management area" includes waterfowl management areas, deer ranges, upland game bird management areas, and public shooting grounds.

(e) Payments under this section shall be made on or before December 10 of each year, excepting newly acquired property for which payments shall be made pursuant to subdivision (f).

(f) Payments for newly acquired property shall be made within one year of the date title to the property was transferred to the state, or within 90 days from the date of designation as a wildlife management area, whichever occurs first, prorated for the balance of the year from the date of designation as a wildlife management area to the 30th day of June following the date of designation as a wildlife management area, and, thereafter, payments shall be made on or before December 10 of each year.

CHAPTER 526

An act to repeal Section 71.1 of the Labor Code, relating to the Industrial Welfare Commission.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 71.1 of the Labor Code is repealed.

CHAPTER 527

An act to amend Sections 1238, 1424, and 1466 of the Penal Code, relating to disqualification of prosecutors.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988]

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

SECTION 1. Section 1238 of the Penal Code, as amended by Section 5 of Chapter 938 of the Statutes of 1980, is amended to read:

1238. (a) An appeal may be taken by the people from any of the following:

(1) An order recusing the district attorney pursuant to Section 1424.

(2) An order setting aside the indictment, information, or complaint.

(3) A judgment for the defendant on a demurrer to the indictment, accusation, or information.

(4) An order granting a new trial.

(5) An order arresting judgment.

(6) An order made after judgment, affecting the substantial rights of the people.

(7) An order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed or modifying the offense to a lesser offense.

(8) An order dismissing a case prior to trial made upon motion of the court pursuant to Section 1385 whenever such order is based upon an order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code.

(9) An order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(10) An order denying the motion of the people to reinstate the

complaint or a ortion thereof pursuant to Section 871.5.

(b) If, pursuant to paragraph (9) of subdivision (a), the people prosecute an appeal to decision, or any review of the decision, it shall be binding upon them and they shall be prohibited from refiling the case which was appealed.

(c) When an appeal is taken pursuant to paragraph (8) of subdivision (a), the court may review the order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code.

SEC. 2. Section 1424 of the Penal Code is amended to read:

1424. Notice of any motion to disqualify a district attorney from performing any authorized duty shall be served on the district attorney and the Attorney General at least 10 days before the motion is heard. The notice of motion must set forth a statement of the facts relevant to the claimed disqualification and the legal authorities relied upon by the moving party. The Attorney General may appear at the hearing on the motion and may file with the court hearing the motion a written opinion on the disqualification issue. The motion shall not be granted unless it is shown by the evidence that a conflict of interest exists such as would render it unlikely that the defendant would receive a fair trial. An order recusing the district attorney from any proceeding may be appealed by the district attorney or the Attorney General. The order recusing the district attorney shall be stayed pending any appeal authorized by this section.

An appeal from an order of recusal from a superior court or from a case involving any charges punishable as a felony shall be made pursuant to Chapter 1 (commencing with Section 1235) of Title 9, regardless of the court in which the order is made. An appeal from an order of recusal in a misdemeanor case shall be made pursuant to Chapter 2 (commencing with Section 1466) of Title 11.

SEC. 3. Section 1466 of the Penal Code is amended to read:

1466. An appeal may be taken from a judgment or order of an inferior court, in a criminal case, to the superior court of the county in which the inferior court is located, in the following cases.

(a) By the people:

(1) From an order recusing the district attorney pursuant to Section 1424.

(2) From an order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(3) From a judgment for the defendant upon the sustaining of a demurrer.

(4) From an order granting a new trial.

(5) From an order arresting judgment.

(6) From any order made after judgment affecting the substantial rights of the people.

(b) By the defendant:

(1) From a final judgment of conviction. A sentence, an order granting probation, a conviction in a case in which before final

judgment the defendant is committed for insanity or is given an indeterminate commitment as a mentally disordered sex offender, or the conviction of a defendant committed for controlled substance addiction shall be deemed to be a final judgment within the meaning of this section. Upon appeal from a final judgment or an order granting probation the court may review any order denying a motion for a new trial.

(2) From any order made after judgment affecting his or her substantial rights.

CHAPTER 528

An act to amend Section 1238 of the Penal Code, relating to appeals.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 1238 of the Penal Code is amended to read:

1238. (a) An appeal may be taken by the people from any of the following:

(1) An order setting aside the indictment, information, or complaint.

(2) A judgment for the defendant on a demurrer to the indictment, accusation, or information.

(3) An order granting a new trial.

(4) An order arresting judgment.

(5) An order made after judgment, affecting the substantial rights of the people.

(6) An order modifying the verdict or finding by reducing the degree of the offense or the punishment imposed or modifying the offense to a lesser offense.

(7) An order dismissing a case prior to trial made upon motion of the court pursuant to Section 1385 whenever such order is based upon an order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code.

(8) An order or judgment dismissing or otherwise terminating the action before the defendant has been placed in jeopardy or where the defendant has waived jeopardy.

(9) An order denying the motion of the people to reinstate the complaint or a portion thereof pursuant to Section 871.5.

(10) The imposition of an unlawful sentence, whether or not the court suspends the execution of the sentence, except that portion of a sentence imposing a prison term which is based upon a court's choice that a term of imprisonment (A) be the upper, middle, or

lower term, unless the term selected is not set forth in an applicable statute, or (B) be consecutive or concurrent to another term of imprisonment, unless an applicable statute requires that the term be consecutive. As used in this paragraph, "unlawful sentence" means the imposition of a sentence not authorized by law or the imposition of a sentence based upon an unlawful order of the court which strikes or otherwise modifies the effect of an enhancement or prior conviction.

(b) If, pursuant to paragraph (8) of subdivision (a), the people prosecute an appeal to decision, or any review of such decision, it shall be binding upon them and they shall be prohibited from refiling the case which was appealed.

(c) When an appeal is taken pursuant to paragraph (7) of subdivision (a), the court may review the order granting defendant's motion to return or suppress property or evidence made at a special hearing as provided in this code.

(d) Nothing contained in this section shall be construed to authorize an appeal from an order granting probation. Instead, the people may seek appellate review of any grant of probation, whether or not the court imposes sentence, by means of a petition for a writ of mandate or prohibition which is filed within 60 days after probation is granted. The review of any grant of probation shall include review of any order underlying the grant of probation.

CHAPTER 529

An act to add Sections 5505 and 9271 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988]

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

SECTION 1. Section 5505 is added to the Vehicle Code, to read:

5505. (a) This section applies to any vehicle reported to be a total loss salvage vehicle pursuant to Section 11515 and to any vehicle reported to have been dismantled pursuant to Section 5500 or 11520.

(b) Whenever an application is made to the department to register a vehicle described in subdivision (a), the department may inspect the vehicle to determine its proper identity or request that the inspection be performed by an agent designated by the department.

SEC. 2. Section 9271 is added to the Vehicle Code, to read:

9271. (a) In addition to any other fees specified in this code, a fee sufficient to cover the department's costs for the inspections performed pursuant to Section 5505 shall be charged to register a vehicle which has been declared a total loss salvage vehicle pursuant

to Section 11515 or which has been reported to have been dismantled pursuant to Section 5500 or 11520.

CHAPTER 530

An act to add Section 2937.7 to the Civil Code, and to amend Section 369 of the Code of Civil Procedure, relating to real property.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 2937.7 is added to the Civil Code, to read:

2937.7. In any action affecting the interest of any trustor or beneficiary under a deed of trust or mortgage, service of process to the trustee does not constitute service to the trustor or beneficiary and does not impose any obligation on the trustee to notify the trustor or beneficiary of the action.

SEC. 2. Section 369 of the Code of Civil Procedure is amended to read:

369. (a) An executor or administrator, or trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him or her the persons for whose benefit the action is prosecuted. Except for a person upon whom a power of sale has been conferred pursuant to a deed of trust or mortgage, a person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.

(b) Notwithstanding subdivision (a), a trustee upon whom a power of sale has been conferred pursuant to a deed of trust or mortgage may sue to exercise the trustee's powers and duties pursuant to Chapter 2 (commencing with Section 2920) of Title 14 of Part 4 of Division 3 of the Civil Code.

SEC. 3. It is the intent of the Legislature in enacting this act that the changes made by this act shall not create an inference regarding the status or application of the law prior to the effective date of these changes.

CHAPTER 531

An act to amend Section 14105.15 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 14105.15 of the Welfare and Institutions Code is amended to read:

14105.15. (a) In determining rates of reimbursement for inpatient hospital services the department shall use the reimbursement policy existing on June 29, 1982. The director shall have authority to modify this reimbursement policy. The director shall implement a new reimbursement policy of peer grouping of hospitals through the promulgation of emergency regulations after required federal approvals are obtained. The department may adjust interim payment percentages to hospitals in order to approximate final settlement and may control or freeze charges in order to carry out this section.

This section shall cease to apply to a hospital when the department enters into a contract, pursuant to Article 2.6 (commencing with Section 14081), either with that hospital or with other hospitals to the exclusion of that hospital for services covered under the contracts.

(b) Notwithstanding any other provision of law, the department may make interim rate adjustments and also implement collection procedures to recover overpayments to hospitals, at tentative and final settlement. These recoveries shall be based on audits or examinations made by or on behalf of the department pursuant to Sections 10722 and 14170, including the application of Sections 51536, 51537, and 51539 of Title 22 of the California Administrative Code at tentative and final settlement. Recovery may be made whether or not appeals by the hospitals are pending. Collection of overpayments shall be made in accordance with Section 14172.5.

(c) The amendment of this section made at the 1985 portion of the 1985–86 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law. This declaration shall not apply to any lawsuits filed on or before July 9, 1985.

(d) It is the intent of the Legislature to evaluate alternative payment systems for hospitals in health facility planning areas which are not closed for contracting purposes and noncontracting hospitals in closed areas. The alternatives shall include, but are not limited to, selective contracting, prospective payment systems, or other feasible options. Any alternative payment system presented to the Legislature shall include at least all of the following:

(1) Payment adjustments which recognize the situation of hospitals serving a disproportionate share of low-income patients

with special needs.

(2) The potential need for payment differentials between urban and rural hospitals.

(3) Alternative data bases, base years, and payment code weighting considerations.

(4) Potential outliers or exemptions, or both, from prospective payment regarding patient cost, length of stay, or type of service.

(5) Facility-specific considerations.

(6) Appeals processes and updating mechanisms.

(e) In order to evaluate the alternatives, the department may select a contractor to conduct a study and prepare a report which shall include preparation of a general systems design of the alternatives and estimate costs of developing a detailed system design of the recommended alternative. The alternatives shall include, but not be limited to, the reduction of administrative costs to the department and hospitals, incentives for hospitals to contain their costs, and the provision of appropriate and timely payments to hospitals.

(f) The contractor and department shall solicit the cooperation and assistance of the hospital industry and shall consider its recommendations throughout the course of the study.

(g) The department may submit a report to the Legislature by January 31, 1989. The report shall include the contractor's report prepared pursuant to subdivision (e). The department's report shall contain, but shall not be limited to, information on hospital structures and costs on file with the State Department of Health Services, and financial and patient discharge data on file with the Office of Statewide Health Planning and Development. The report shall include the comments and recommendations of the hospital industry.

(h) No new payment system may be implemented without specific authorization from the Legislature.

CHAPTER 532

An act to add Section 21083.9 to the Public Resources Code, relating to environmental quality.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 21083.9 is added to the Public Resources Code, to read:

21083.9. Notwithstanding Section 21080.4, 21104, or 21153, a lead agency shall call at least one scoping meeting for a proposed project which may affect highways or other facilities under the jurisdiction

of the Department of Transportation if the meeting is requested by the department. The lead agency shall call the scoping meeting as soon as possible, but not later than 30 days after receiving the request from the Department of Transportation.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 533

An act to add Section 23357.3 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 23357.3 is added to the Business and Professions Code, to read:

23357.3. (a) A beer manufacturer's license or out-of-state beer manufacturer's certificate issued to a manufacturer located within the United States authorizes the licensee to conduct tastings of beer produced or bottled by, or produced or bottled for, the licensee, on or off the licensee's premises. Beer tastings may be conducted by the licensee off the licensee's premises only for an event sponsored by a nonprofit organization and only if persons attending the event are affiliated with the sponsor. No beer shall be sold or solicited for sale in that portion of the premises where the beer tasting is being conducted. Notwithstanding Section 25600, the manufacturer may provide beer without charge for any tastings conducted pursuant to this section.

(b) (1) For purposes of this section, "nonprofit organization" does not include any community college or other institution of higher learning, as defined in the Education Code, nor does it include any officially recognized club, fraternity, or sorority whether or not that entity is located on or off the institution's campus.

(2) For purposes of this section, "affiliated with the sponsor" means directors, officers, members, employees, and volunteers of bona fide charitable, fraternal, political, religious, trade, service, or similar nonprofit organizations and their invited guests.

(3) For purposes of this section, persons "affiliated with the sponsor" also includes up to three guests invited by persons described in paragraph (2).

(c) The sponsoring organization shall first obtain a permit from the department at a fee equal to the actual cost of issuing the permit but not to exceed twenty-five dollars ($25) per day.

(d) The department may adopt rules and regulations as it determines to be necessary for the administration of this section.

CHAPTER 534

An act to amend Section 53313.5 of the Government Code, relating to community facilities districts.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 53313.5 of the Government Code is amended to read:

53313.5. A community facilities district may also finance the purchase, construction, expansion, improvement, or rehabilitation of any real or other tangible property with an estimated useful life of five years or longer or may finance planning and design work which is directly related to the purchase, construction, expansion, or rehabilitation of any real or tangible property. The facilities need not be physically located within the district. A district may not lease out facilities which it has financed except pursuant to a lease agreement or annexation agreement entered into prior to January 1, 1988. A district may only finance the purchase of facilities whose construction has been completed, as determined by the legislative body, before the resolution of formation to establish the district is adopted pursuant to Section 53325.1, except that a district may finance the purchase of facilities completed after the adoption of the resolution of formation if the facility was constructed as if it had been constructed under the direction and supervision, or under the authority of, the local agency. For example, a community facilities district may finance facilities, including, but not limited to, the following:

(a) Local park, recreation, parkway, and open-space facilities.

(b) Elementary and secondary schoolsites and structures provided that the facilities meet the building area and cost standards established by the State Allocation Board.

(c) Libraries.

(d) Child care facilities, including costs of insuring the facilities against loss, liability insurance in connection with the operation of the facility, and other insurance costs relating to the operation of the facilities, but excluding all other operational costs. However, the proceeds of bonds issued pursuant to this chapter shall not be used to pay these insurance costs.

(e) The district may also finance the construction or undergrounding of natural gas pipeline facilities, telephone lines, facilities for the transmission or distribution of electrical energy, and cable television lines to provide access to those services to customers who do not have access to those services or to mitigate existing visual blight. The district may enter into an agreement with a public utility to utilize those facilities to provide a particular service and for the conveyance of those facilities to the public utility. If the facilities are conveyed to the public utility, the agreement shall provide for a refund by the public utility to the district or improvement area thereof for the cost of the facilities. Any reimbursement made to the district shall be utilized to reduce or minimize the special tax levied within the district or improvement area, or to construct or acquire additional facilities within the district or improvement area, as specified in the resolution of formation.

(f) The district may also pay in full all amounts necessary to eliminate any fixed special assessment liens or to repay or defease any indebtedness secured by any tax, fee, charge, or assessment levied within the area of a community facilities district or may pay debt service on that indebtedness.

(g) Any other governmental facilities which the legislative body creating the community facilities district is authorized by law to contribute revenue to, or construct, own, or operate. However, the district shall not operate or maintain or, except as otherwise provided in subdivision (d), have any ownership interest in any facilities for the transmission or distribution of natural gas, telephone service, or electrical energy.

CHAPTER 535

An act to add Section 848 to the Civil Code, relating to real property.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 848 is added to the Civil Code, to read:

848. The owner of mineral rights, as defined by Section 883.110, in real property shall give a written notice to the owner or the owner's representative of the real property who is listed as the assessee on the current local assessment roll or lessee, if different from the mineral rights owner, and to any public utility which has a recorded interest in the real property, if there is to be excavation of the utility interest, prior to the first entry upon the real property to prospect for, mine, or extract any mineral. The written notice shall be given by certified mail or acknowledged personal delivery to the

owner, the owner's representative, or lessee, and shall inform the owner, the owner's representative, or lessee and the public utility of the extent and location of the prospecting, mining, or extracting operation, and the approximate time or times of entry and exit upon the real property.

If the mineral rights owner has not complied with this notice requirement, the owner of the real property listed on the current assessment roll or any public utility which has a recorded interest in the real property may request a court to enjoin the prospecting, mining, or extracting operation until the mineral rights owner has complied. The absence of a known owner on the assessment roll or any public utility which has a recorded interest in the real property relieves the mineral rights owner of the obligation to give the written notice to the owner or public utility.

For purposes of this section, an "acknowledged personal delivery" means that the written notice is personally delivered to the owner, the owner's representative, or lessee, and the owner, the owner's representative, or lessee acknowledges, in writing, receipt of the notice.

CHAPTER 536

An act to add Section 5.2 to the County Water Authority Act (Chapter 545 of the Statutes of 1943), relating to county water authorities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 5.2 is added to the County Water Authority Act (Chapter 545 of the Statutes of 1943), to read:

Sec. 5.2. (a) Any authority may, by ordinance, fix on or before the third Monday of August, in each fiscal year, a water standby availability charge on land within the boundaries of the authority, to which water is made available by the authority, whether the water is actually used or not.

(b) The standby availability charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the authority or ten dollars ($10) per year for a parcel less than one acre.

(c) The availability charge shall be adopted by the board of directors only after adoption of a resolution setting forth the particular schedule or schedules of charges proposed to be established by ordinance and after a public hearing on the resolution. The secretary shall cause notice of a time and place of the hearing to be published pursuant to Section 6066 of the Government Code,

prior to the date set for hearing, in a newspaper of general circulation printed and published within the authority. At the time stated in the notice, the board of directors shall hear and consider all objections or protests, if any, to the resolution referred to in the notice and may continue the hearing from time to time. Upon the conclusion of the hearing, the board of directors may adopt, revise, charge, reduce, or modify an assessment of charge or overrule any or all objections. The board of directors shall make its determination upon each charge as described in the resolution, which determination shall be final.

(d) On or before the third Monday in August, the board of directors shall furnish in writing to the board of supervisors and the county auditor of each affected county a description of that parcel of land within the authority upon which an availability charge is to be levied and collected for the current fiscal year, together with the amount of availability charge fixed by the authority on each parcel of land which is to be added to the assessment roll.

(e) The authority shall direct that, at the time and in the manner required by law for the levying of taxes for county purposes, the board of supervisors shall levy, in addition to any other taxes levied, the availability charge in the amounts for the respective parcels fixed by the authority.

(f) All county officers charged with the duties of collecting taxes shall collect the authority's availability charges with the regular tax payments to the county. The availability charges shall be collected in the same form and manner as county taxes are collected, including procedures in the event of delinquency. Upon collection of the availability charges by the tax collector, the collections shall be paid to the authority. The county may deduct the reasonable administrative costs incurred in levying and collecting the water standby availability charge.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

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

In order to equitably implement the structure of rates and charges necessary to finance projects currently required for water distribution facilities, it is necessary that this act take effect immediately.

CHAPTER 537

An act to amend Sections 22454, 22470, 24454, and 24470 of, and to add Sections 18394 and 18454.5 to, the Financial Code, relating to financial transactions.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988]

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

SECTION 1. Section 18394 is added to the Financial Code, to read:

18394. Investigation and examination reports prepared by the commissioner's duly designated representatives shall not be public records. Those reports may be disclosed to the officers and directors of a company which is the subject of a report for the purpose of corrective action by those officers or directors. Any such disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.

SEC. 2. Section 18454.5 is added to the Financial Code, to read:

18454.5. It is unlawful for any person to willfully make any untrue statement of a material fact in any document filed with the commissioner under this division, or to willfully omit to state in any document any material fact which is required to be stated therein.

SEC. 3. Section 22454 of the Financial Code is amended to read:

22454. (a) Except as provided in Section 22451.3 and in Article 3 (commencing with Section 22480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.).

(c) This section shall not apply to open end loans.

SEC. 4. Section 22470 of the Financial Code is amended to read:

22470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the

maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more.

SEC. 4.5. Section 22470 of the Financial Code is amended to read:

22470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 5. Section 24454 of the Financial Code is amended to read:

24454. (a) Except as provided in Section 24451.3 and in Article 3 (commencing with Section 24480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than one month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate

degree, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.).

(c) This section shall not apply to open end loans.

SEC. 6. Section 24470 of the Financial Code is amended to read:

24470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more.

SEC. 6.5. Section 24470 of the Financial Code is amended to read:

24470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24054.

SEC. 7. Section 4.5 of this bill incorporates amendments to Section 22470 of the Financial Code proposed by both this bill and SB 1959. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 22470 of the Financial Code, and (3) this bill is enacted after SB 1959, in which case Section 4 of this bill shall not become operative.

SEC. 8. Section 6.5 of this bill incorporates amendments to Section 24470 of the Financial Code proposed by both this bill and SB 1959. It shall only become operative if (1) both bills are enacted

and become effective on January 1, 1989, (2) each bill amends Section 24470 of the Financial Code, and (3) this bill is enacted after SB 1959, in which case Section 6 of this bill shall not become operative.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 538

An act to amend Sections 2000 and 20111 of the Public Contract Code, relating to public contracts.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 2000 of the Public Contract Code is amended to read:

2000. (a) Notwithstanding any other provision of law requiring a local agency to award contracts to the lowest responsible bidder, any local agency may require that a contract be awarded to the lowest responsible bidder who also does either of the following:

(1) Meets goals and requirements established by the local agency relating to participation in the contract by minority business enterprises and women business enterprises. If the bidder does not meet the goals and requirements established by the local agency for that participation, the local agency shall evaluate the good faith effort of the bidder to comply with those goals and requirements as provided in paragraph (2).

(2) Makes a good faith effort, in accordance with the criteria established pursuant to subdivision (b), prior to the time bids are opened, to comply with the goals and requirements established by the local agency relating to participation in the contract by minority or women business enterprises.

(b) (1) The bidder attended any presolicitation or prebid meetings that were scheduled by the local agency to inform all bidders of the minority and women business enterprise program requirements for the project for which the contract will be awarded. A local agency may waive this requirement if it determines that the bidder is informed as to those program requirements.

(2) The bidder identified and selected specific items of the project for which the contract will be awarded to be performed by minority or women business enterprises to provide an opportunity

for participation by those enterprises.

(3) The bidder advertised, not less than 10 calendar days before the date the bids are opened, in one or more daily or weekly newspapers, trade association publications, minority or trade oriented publications, trade journals, or other media, specified by the local agency for minority or women business enterprises that are interested in participating in the project. This paragraph applies only if the local agency gave public notice of the project not less than 15 calendar days prior to the date the bids are opened.

(4) The bidder provided written notice of his or her interest in bidding on the contract to the number of minority or women business enterprises required to be notified by the project specifications not less than 10 calendar days prior to the opening of bids. To the extent possible, the local agency shall make available to the bidder not less than 15 calendar days prior to the date the bids are opened a list or a source of lists of enterprises which are certified by the local agency as minority or women business enterprises. If the local agency does not provide that list or source of lists to the bidder, the bidder may utilize the list of certified minority or women business enterprises prepared by the Department of Transportation pursuant to Section 14030.5 of the Government Code for this purpose.

(5) The bidder followed up initial solicitations of interest by contacting the enterprises to determine with certainty whether the enterprises were interested in performing specific items of the project.

(6) The bidder provided interested minority and women business enterprises with information about the plans, specifications, and requirements for the selected subcontracting or material supply work.

(7) The bidder requested assistance from minority and women community organizations; minority and women contractor groups; local, state, or federal minority and women business assistance offices; or other organizations that provide assistance in the recruitment and placement of minority or women business enterprises, if any are available.

(8) The bidder negotiated in good faith with the minority or women business enterprises, and did not unjustifiably reject as unsatisfactory bids prepared by any minority or women business enterprises, as determined by the local agency.

(9) Where applicable, the bidder advised and made efforts to assist interested minority and women business enterprises in obtaining bonds, lines of credit, or insurance required by the local agency or contractor.

(10) The bidder's efforts to obtain minority and women business enterprise participation could reasonably be expected by the local agency to produce a level of participation sufficient to meet the goals and requirements of the local agency.

(c) The performance by a bidder of all of the criteria specified in

subdivision (b) shall create a rebuttable presumption, affecting the burden of producing evidence, that a bidder has made a good faith effort to comply with the goals and requirements relating to participation by minority and women business enterprises established pursuant to subdivision (a).

(d) "Local agency," as used in this section, means a county or city, whether general law or chartered, city and county, school district, or other district. "District," as used in this section, means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(e) "Minority or women business enterprise," as used in this section, means a business enterprise that meets both of the following criteria:

(1) A business that is at least 51 percent owned by one or more minority persons or women or, in the case of any business whose stock is publicly held, at least 51 percent of the stock is owned by one or more minority persons or women.

(2) A business whose management and daily business operations are controlled by one or more minority persons or women.

(f) "Minority person," for purposes of this section, means Black Americans, Hispanic Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan), or any other group of natural persons identified as minorities in the project specifications by the local agency.

(g) This section does not apply to any of the following:

(1) Any contract, funded in whole or in part by the federal government, to the extent of any conflict between the requirements imposed by this section and any requirements imposed by the federal government relating to participation in a contract by a minority or women business enterprise as a condition of receipt of the federal funds.

(2) The San Francisco Bay Area Rapid Transit District, the Los Angeles County Transportation Commission, or any other local agency that has authority to facilitate the participation of minority or women business enterprises substantially similar to the authority granted to the San Francisco Bay Area Rapid Transit District pursuant to Section 20229 of this code or the Los Angeles County Transportation Commission pursuant to Section 130239 of the Public Utilities Code.

SEC. 2. Section 20111 of the Public Contract Code is amended to read:

20111. The governing board of any school district, in accordance with any requirement established by that governing board pursuant to subdivision (a) of Section 2000, shall let any contracts involving an

expenditure of more than fifteen thousand dollars ($15,000) for work to be done or more than twenty-one thousand dollars ($21,000) for materials or supplies to be furnished, sold, or leased to the district, to the lowest responsible bidder who shall give such security as the board requires, or else reject all bids. This section applies to all materials and supplies whether patented or otherwise.

CHAPTER 539

An act to amend Section 21451 of the Public Contract Code, and to amend Section 3.9 of, to add Sections 3.10, 3.11, 3.12, 3.13, 3.14, and 16.5 to, and to repeal Sections 12.1, 12.2, 12.3, and 12.4 of, the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), relating to the Amador County Water Agency.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 21451 of the Public Contract Code is amended to read:

21451. All contracts for any improvement or unit of work, when the cost according to the estimate of the engineer will exceed twelve thousand five hundred dollars ($12,500), shall be let to the lowest responsible bidder or bidders as provided in this section. The board shall first determine whether the contract shall be let as a single unit for the whole of the work, or divided into severable convenient parts. The board shall advertise for bids by three insertions in a daily newspaper of general circulation or by two insertions in a weekly newspaper of general circulation printed and published in the agency, inviting sealed proposals for the construction or performance of the improvement or work. The call for bids shall state whether the work shall be performed in one unit or divided into parts. The work may be let under a single contract or several contracts, as stated in such call. The board shall require the successful bidders to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of their claims for labor and material. The payment bonds shall comply with Chapter 7 (commencing with Section 3247) of Division 3 of Title 15 of the Civil Code. The board may reject any and all bids. If all proposals are rejected or no proposals are received, or the estimated cost of the work does not exceed twelve thousand five hundred dollars ($12,500), or the work consists of channel protection, maintenance work, or emergency work, the board may have the work done by force account without advertising for bids. The agency may purchase in the open market without advertising for bids, materials and

supplies for use in any work, either under contract or by force account.

SEC. 2. Section 3.9 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is amended to read:

Sec. 3.9. The agency may fix standby charges to be applied on an area, or frontage, or parcel basis, or a combination thereof, to those areas within the agency to which service is made available, whether the service is actually used or not, for the purpose of financing or maintaining and operating projects which the agency is authorized to undertake. The agency may establish schedules varying the charges according to the land uses and the degree of availability or quantity of use of the service to the affected lands, and may restrict the charge to lands lying within one or more improvement districts or areas of benefits established within the agency. No standby charge may be applied to any land situated more than one-half mile from an available main or service connection. The agency may collect the standby charges as a part of the annual general county tax bill, provided the agency furnishes in writing to the board of supervisors and to the county auditor the description of each parcel for which a charge is to be billed together with the amount of the charge applicable to each parcel in sufficient time to meet the schedule established by the county for inclusion of such items on the county general tax bill. The parcel description may be the parcel number assigned by the county assessor to the parcel. In those cases, the standby charge shall become a lien against the parcel of land to which it is charged in the same manner as the county general taxes. Penalties may be collected for late payment of the standby charge or the amount thereof unpaid in the manner and at the same rates as that applicable for late payment or the amount thereof unpaid of county general taxes. If the agency collects standby charges through the county general tax bill, the amount of the standby charge and any applicable penalty shall be stated on the tax bill separately from all other taxes, if practicable.

SEC. 3. Section 3.10 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 3.10. The board shall adopt a resolution to initiate proceedings to fix a standby charge. The resolution shall contain all of the following:

(a) A statement that the report of a qualified engineer is on file with the agency and that a standby charge is proposed based upon the report. The report shall include all of the following:

(1) A description of the charge and the method by which it will be imposed.

(2) A compilation of the amount of the charge proposed for each parcel subject to the charge.

(3) A statement of the methodology and rationale followed in determining the degree of benefit conferred by the service for which the charge is made.

(4) The factors listed in Section 3.9.

(b) A description of the lands upon which the charge is to be imposed. Assessor parcel numbers shall constitute sufficient description for this purpose.

(c) The amount of the charge for each of the lands so described.

(d) The date, time, and place upon which the board will hold a public protest hearing regarding the imposition of the charge, and notice that the board will hear and consider all objections or protests, if any, to the proposed charges.

SEC. 4. Section 3.11 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 3.11. The agency shall cause notice of a time and place of hearing on the charge to be published, pursuant to Section 6066 of the Government Code, prior to the date set for hearing, in a newspaper of general circulation printed and published within the jurisdiction of the agency, if there is one, and if not, then in a newspaper of general circulation printed and published in the county. In addition, the agency shall cause a notice in writing to be mailed, at least 14 days prior to the hearing, to each owner of land described in the resolution initiating proceedings. The notice shall be mailed to the address shown on the last equalized assessment roll, or known to the secretary or clerk of the agency.

SEC. 5. Section 3.12 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 3.12. At the time and place stated in the notice, the board shall conduct the hearing, and shall hear and consider all objections or protests, if any, to the resolution referred to in the notice and may continue the hearing from time to time. Upon the conclusion of the hearing, the board may adopt, revise, change, reduce, or modify a charge. The board shall make its determination upon each charge described in the resolution, which determination shall be final.

SEC. 6. Section 3.13 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 3.13. (a) Any landowner desiring to make a protest shall do so by written communication filed with the agency not later than the hour set for the hearing. A protest by a landowner shall contain a description sufficient to identify the land owned by the landowner. The landowner may have the protest withdrawn upon filing a written request therefor with the board prior to the conclusion of the public hearing.

(b) If the governing body receives written protests which are not withdrawn at the time of determination by the board, which protests represent 40 percent of the parcels subject to the charges authorized by Section 3.9, no further proceedings may be had under Sections 3.9 to 3.13, inclusive, until a period of one year has passed from the time of the initiation of this procedure.

(c) If the board receives written protests which are not withdrawn at the time of the determination by the board, which protests represent 15 percent or more of the parcels subject to the charges authorized by Section 3.9, the board may adopt, reduce, or

modify a charge, but no charges shall be collected unless and until the charges are collectively approved by a majority of those voting in an election held within the affected area for that purpose.

SEC. 7. Section 3.14 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 3.14. If the procedures set forth in this act have been followed in a given year, the board may, by resolution, continue the charge in successive years at the same rate and in the same manner, but dispensing with the requirement for mailed notice. The agency shall cause notice of the intent to adopt the resolution to be published pursuant to Section 6066 of the Government Code, prior to the date set for adoption, and shall hear any and all objections at the time and place set forth in the notice. The board shall, at the time and place specified, conduct the hearing and consider all objections or protests to the charge, if any. The board may, thereafter, adopt, revise, reduce, or modify the charge, but may not increase the charge, or may overrule any and all objections. The determination of the board shall be final. This section shall not apply if the amount of the charge is increased, or if the governing body makes any change in the areas subject to the charge, compared to the prior year's charge.

SEC. 8. Section 12.1 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is repealed.

SEC. 9. Section 12.2 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is repealed.

SEC. 10. Section 12.3 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is repealed.

SEC. 11. Section 12.4 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is repealed.

SEC. 12. Section 16.5 is added to the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), to read:

Sec. 16.5. Improvement districts may be formed in the agency for any authorized purpose of the agency in the same manner as improvement districts are formed in irrigation districts. When formed, the improvement districts shall be governed in the same manner as improvement districts in irrigation districts. The board shall have the same rights, powers, duties, and responsibilities with respect to the formation and government of improvement districts in the agency as the board of directors of an irrigation district has with respect to improvement districts in irrigation districts. Assessments in an improvement district in the agency shall be levied, collected, and enforced at the same time and as nearly in the same manner as practicable as annual taxes of the county, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts.

SEC. 13. Sections 2 to 7, inclusive, of this act shall not become operative if Assembly Bill 3047 of the 1987–88 Regular Session is enacted and becomes operative.

CHAPTER 540

An act to amend Sections 21200 and 21200.5 of the Financial Code, relating to pawnbrokers.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 21200 of the Financial Code is amended to read:

21200. (a) Except as otherwise provided in this chapter, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following:

(1) Two and one-half percent (2½%) per month on that portion of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(2) Two percent (2%) per month on that portion of the unpaid principal balance of the loan in excess of two hundred twenty-five dollars ($225) up to, including, but not exceeding nine hundred dollars ($900).

(3) One and one-half percent (1½%) per month on that part of the unpaid principal balance in excess of nine hundred dollars ($900) up to and including, but not in excess of, one thousand six hundred fifty dollars ($1,650).

(4) One percent (1%) per month on any remainder of such unpaid principal balance in excess of one thousand six hundred fifty dollars ($1,650).

(5) A charge not exceeding one dollar ($1) a month on any loan when the monthly charge permitted by this section would otherwise be less than such minimum charge.

(b) One month's interest may be charged for any part of the month in which pawned property is redeemed.

SEC. 2. Section 21200.5 of the Financial Code is amended to read:

21200.5. A pawnbroker may charge as prescribed in the following schedule:

Schedule of Charges

(a) A charge not exceeding one dollar ($1) may be made on any loan for not more than 30 days which does not exceed fourteen dollars and ninety-nine cents ($14.99).

(b) A charge not exceeding three dollars ($3) may be made on any loan for not more than 90 days of fifteen dollars ($15) or more, but not exceeding nineteen dollars and ninety-nine cents ($19.99).

(c) A charge not exceeding four dollars ($4) may be made on any loan for not more than 90 days of twenty dollars ($20) or more, but not exceeding twenty-four dollars and ninety-nine cents ($24.99).

(d) A charge not exceeding five dollars ($5) may be made on any loan for not more than 90 days of twenty-five dollars ($25) or more, but not exceeding thirty-nine dollars and ninety-nine cents ($39.99).

(e) A charge not exceeding six dollars ($6) may be made on any loan for not more than 90 days of forty dollars ($40) or more, but not exceeding forty-nine dollars and ninety-nine cents ($49.99).

(f) A charge not exceeding seven dollars and fifty cents ($7.50) may be made on any loan for not more than 90 days on any loan of fifty dollars ($50) or more, but not exceeding sixty-four dollars and ninety-nine cents ($64.99).

(g) A charge not exceeding eight dollars and fifty cents ($8.50) may be made on any loan for not more than 90 days of sixty-five dollars ($65) or more, but not exceeding seventy-four dollars and ninety-nine cents ($74.99).

(h) A charge not exceeding ten dollars ($10) may be made on any loan for not more than 90 days of seventy-five dollars ($75) or more, but not exceeding ninety-nine dollars and ninety-nine cents ($99.99).

(i) A charge not exceeding twelve dollars and fifty cents ($12.50) may be made on any loan for not more than 90 days of one hundred dollars ($100) or more, but not exceeding one hundred twenty-four dollars and ninety-nine cents ($124.99).

(j) A charge not exceeding thirteen dollars and fifty cents ($13.50) may be made on any loan for not more than 90 days of one hundred twenty-five dollars ($125) or more, but not exceeding one hundred forty-nine dollars and ninety-nine cents ($149.99).

(k) A charge not exceeding fifteen dollars ($15) may be made on any loan for not more than 90 days of one hundred fifty dollars ($150) or more, but not exceeding two hundred twenty-four dollars and ninety-nine cents ($224.99).

(*l*) A charge not exceeding twenty dollars ($20) may be made on any loan for not more than 90 days of two hundred twenty-five dollars ($225) or more, but not exceeding three hundred twenty-four dollars and ninety-nine cents ($324.99).

(m) A charge not exceeding twenty-five dollars ($25) may be made on any loan for not more than 90 days of three hundred twenty-five dollars ($325) or more, but not exceeding four hundred forty-nine dollars and ninety-nine cents ($449.99).

(n) A charge not exceeding thirty-five dollars ($35) may be made on any loan for not more than 90 days of four hundred fifty dollars ($450) or more, but not exceeding five hundred ninety-nine dollars and ninety-nine cents ($599.99).

(o) A charge not exceeding forty-five dollars ($45) may be made on any loan for not more than 90 days of six hundred dollars ($600) or more, but not exceeding seven hundred ninety-nine dollars and ninety-nine cents ($799.99).

(p) A charge not exceeding fifty-five dollars ($55) may be made on any loan for not more than 90 days of eight hundred dollars ($800) or more, but not exceeding nine hundred ninety-nine dollars and ninety-nine cents ($999.99).

(q) A charge not exceeding seventy dollars ($70) may be made in any loan for not more than 90 days of one thousand dollars ($1,000) or more, but not exceeding eleven hundred ninety-nine dollars and ninety-nine cents ($1,199.99).

(r) A charge not exceeding eighty-five dollars ($85) may be made on any loan for not more than 90 days of twelve hundred dollars ($1,200) or more, but not exceeding fourteen hundred ninety-nine dollars and ninety-nine cents ($1,499.99).

(s) A charge not exceeding one hundred dollars ($100) may be made on any loan for not more than 90 days of fifteen hundred dollars ($1,500) or more, but not exceeding seventeen hundred ninety-nine dollars and ninety-nine cents ($1,799.99).

(t) A charge not exceeding one hundred twenty dollars ($120) may be made on any loan for not more than 90 days of eighteen hundred dollars ($1,800) or more, but not exceeding two thousand ninety-nine dollars and ninety-nine cents ($2,099.99).

(u) A charge not exceeding one hundred forty dollars ($140) may be made on any loan for not more than 90 days of twenty-one hundred dollars ($2,100) or more, but not exceeding twenty-four hundred ninety-nine dollars and ninety-nine cents ($2,499.99).

(v) The charge for any extension or renewal of a loan covered by this section shall be computed in accordance with the provisions of Section 21200.

The schedule of charges prescribed by this section shall be posted in a place clearly visible to the general public.

CHAPTER 541

An act to amend Section 669.5 of the Evidence Code, relating to evidence.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 669.5 of the Evidence Code is amended to read:

669.5. (a) Any ordinance enacted by the governing body of a city, county, or city and county which (1) directly limits, by number, the building permits that may be issued for residential construction or the buildable lots which may be developed for residential purposes, or (2) changes the standards of residential development on vacant land so that the governing body's zoning is rendered in violation of Section 65913.1 of the Government Code is presumed to have an impact on the supply of residential units available in an area which includes territory outside the jurisdiction of the city, county, or city and county.

(b) With respect to any action which challenges the validity of an ordinance specified in subdivision (a) the city, county, or city and county enacting the ordinance shall bear the burden of proof that the ordinance is necessary for the protection of the public health, safety, or welfare of the population of the city, county, or city and county.

(c) This section does not apply to state and federal building code requirements or local ordinances which (1) impose a moratorium, to protect the public health and safety, on residential construction for a specified period of time, if, under the terms of the ordinance, the moratorium will cease when the public health or safety is no longer jeopardized by the construction, (2) create agricultural preserves under Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code, or (3) restrict the number of buildable parcels or designate lands within a zone for nonresidential uses in order to protect agricultural uses as defined in subdivision (b) of Section 51201 of the Government Code or open-space land as defined in subdivision (b) of Section 65560 of the Government Code.

(d) This section shall not apply to a voter approved ordinance adopted by referendum or initiative prior to the effective date of this section which (1) requires the city, county, or city and county to establish a population growth limit which represents its fair share of each year's statewide population growth, or (2) which sets a growth rate of no more than the average population growth rate experienced by the state as a whole. Paragraph (2) of subdivision (a) does not apply to a voter-approved ordinance adopted by referendum or initiative which exempts housing affordable to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, or which otherwise provides low- and moderate-income housing sites equivalent to such an exemption.

CHAPTER 542

An act to amend Section 4800.8 of the Civil Code, to amend Section 23702 of, and to add Chapter 7.5 (commencing with Section 22650) to Part 13 of, the Education Code, and to amend Sections 21204 and 21205 of, and to add Article 1.2 (commencing with Section 21215) to Chapter 9 of Part 3 of Division 5 of Title 2 of, the Government Code, relating to state retirement systems, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988]

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

SECTION 1. Section 4800.8 of the Civil Code is amended to read:

4800.8. The court shall make whatever orders are necessary or appropriate to assure that each party receives his or her full community property share in any retirement plan, whether public or private, including all survivor and death benefits, including, but not limited to, any of the following:

(a) Order the division of any retirement benefits payable upon or after the death of either party in a manner consistent with Section 4800.

(b) Order a party to elect a survivor benefit annuity or other similar election for the benefit of the other party, as specified by the court, in any case in which a retirement plan provides for such an election.

(c) Order the division of accumulated community property contributions and service credit as provided in Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code.

(d) Order the division of community property rights in accounts with the State Teachers' Retirement System pursuant to Chapter 7.5 (commencing with Section 22650) of Part 13 of the Education Code.

SEC. 2. Chapter 7.5 (commencing with Section 22650) is added to Part 13 of the Education Code, to read:

CHAPTER 7.5. COMMUNITY PROPERTY

22650. This chapter establishes the power of a court in a dissolution of marriage or legal separation action with respect to community property rights in accounts with the system and establishes and defines the rights of nonmember spouses in the system.

22651. For purposes of this chapter and Section 23702, "nonmember spouse" means the former spouse who is being or has been awarded a community property interest in the service credit and accumulated retirement contributions of the member or the benefits of a retirant. A nonmember spouse who is awarded a separate account of service credit and accumulated retirement contributions is not a member of the system. A nonmember spouse who receives a retirement allowance or is awarded an interest in a retirement allowance of a retirant is not a retirant of the system.

22652. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) The court may order in the judgment or court order that the accumulated retirement contributions and service credit

attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember spouse, respectively. Any service credit or accumulated retirement contributions which are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) The determination of the court of community property rights pursuant to this section shall be consistent with this chapter and shall address the rights of the nonmember spouse, including, but not limited to, the following:

(1) The right to a retirement allowance.

(2) The right to a refund of accumulated retirement contributions.

(3) The right to redeposit accumulated retirement contributions which are eligible for redeposit by the member under Sections 23200 to 23203, inclusive, and the shares of the member and the nonmember spouse of the eligible redeposit amount.

(4) The right to purchase additional service credit which is eligible for purchase by the member under Sections 22900 to 22909, inclusive, and the shares of the member and the nonmember spouse of the service credit eligible for purchase.

22653. The nonmember spouse who is awarded a separate account pursuant to Section 22652 is not a member of the system. The nonmember spouse is entitled only to rights and benefits explicitly established by this chapter.

22654. The nonmember spouse who is awarded a separate account shall have the right to designate, pursuant to Sections 23701 to 23709, inclusive, a beneficiary or beneficiaries to receive the accumulated retirement contributions remaining in the separate account of the nonmember spouse on his or her date of death, and any accrued allowance attributable to the separate account which is unpaid on the date of the death of the nonmember spouse.

This section shall not be construed to provide the nonmember spouse with any right to elect to modify a retirement allowance under Section 24200.

22655. The nonmember spouse who is awarded a separate account shall have the right to a refund of accumulated retirement contributions in the separate account of the nonmember.

(a) The right of the nonmember spouse to a refund of accumulated retirement contributions is subject to Section 23103.

(b) The nonmember spouse shall file an application on a form provided by the system to obtain the refund.

(c) The refund is effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember spouse and addressed to the latest address for the nonmember spouse on file in the system.

(d) The nonmember spouse is deemed to have permanently waived all rights and benefits pertaining to the service credit and represented by the accumulated retirement contributions when the

refund becomes effective.

(e) The nonmember spouse may not cancel a refund after the refund is effective.

(f) The nonmember spouse shall have no right to elect to redeposit the refunded accumulated retirement contributions after the refund is effective and shall have no right to redeposit under Section 22656 or purchase additional service credit under Section 22657 after the refund becomes effective.

(g) If the total service credit in the separate account of the nonmember spouse, including service credit purchased under Sections 22656 and 22657, is less than two and one-half years, the board shall refund the balance of the account without an application from the nonmember spouse.

22656. The nonmember spouse who is awarded a separate account may redeposit accumulated retirement contributions previously refunded to the member in accordance with the determination of the court required by Section 22652.

(a) The nonmember spouse may redeposit only those accumulated retirement contributions which were previously refunded to the member and which the court has determined to be the community property interest of the nonmember spouse in the accumulated retirement contributions.

(b) The nonmember spouse shall inform the system in writing of his or her intent to redeposit within 180 days after the judgment or court order addressing the redeposit rights of the nonmember spouse is entered. The nonmember spouse shall elect to redeposit on a form provided by the system within 30 days after the system mails the election form and the billing.

(c) If the nonmember spouse elects to redeposit, he or she shall repay the accumulated retirement contributions and shall pay regular interest from the date of the refund to the date of payment.

(d) An election to redeposit shall be considered an election to repay all accumulated retirement contributions previously refunded. All payments shall be received by the system before the effective date of retirement of the nonmember spouse. If any payment due because of the election is not received at the Sacramento office of the system within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(e) The right of the nonmember spouse to redeposit is subject to Section 23201.

(f) The member has no right to redeposit the share of the nonmember spouse in the previously refunded accumulated retirement contributions whether or not the nonmember spouse elects to redeposit. However, any previously refunded accumulated retirement contributions not explicitly awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

22657. The nonmember spouse who is awarded a separate

account shall have the right to purchase additional service credit in accordance with the determination of the court required by Section 22652.

(a) The nonmember spouse may purchase only that service credit which the court, pursuant to Section 22652, has determined to be the community property interest of the nonmember spouse.

(b) The nonmember spouse shall inform the system in writing of his or her intent to purchase additional service credit within 180 days after the date the judgment or court order addressing the right of the nonmember spouse to purchase additional service credit is entered. The nonmember spouse shall elect to purchase additional service credit on a form provided by the system within 30 days after the system mails the election form and the billing.

(c) If the nonmember spouse elects to purchase additional service credit, he or she shall pay, prior to retirement, all contributions with respect to the additional service at the contribution rate for additional service credit in effect at the time of election and regular interest from July 1 of the year following the year upon which contributions are based.

(1) The nonmember spouse shall purchase additional service credit by paying the required contributions and interest in one lump sum, or in not more than 60 monthly installments, provided that no installment, except the final installment, shall be less than twenty-five dollars ($25). Regular interest shall be charged on the monthly unpaid balance if the nonmember spouse pays in installments.

If any payment due because of the election is not received at the Sacramento office of the system within 120 days of its due date, the election shall be canceled and any payments made under the election shall be returned to the nonmember spouse.

(2) The contributions shall be based on the compensation earnable of the member in the most recent school year during which the member was employed, preceding the date of separation established by the court pursuant to Section 22652.

(3) All payments of contributions and interest shall be received by the system before the effective date of the retirement of the nonmember.

(d) The nonmember spouse shall have no right to purchase additional service credit after the effective date of a refund of the accumulated contributions in the separate account of the nonmember spouse.

(e) The member has no right to purchase the community property interest of the nonmember spouse of additional service credit whether or not the nonmember spouse elects to purchase the additional service credit. However, any additional service credit eligible for purchase that is not explicity awarded to the nonmember spouse by the judgment or court order shall be deemed the exclusive property of the member.

22658. The nonmember spouse who is awarded a separate

account shall have the right to a retirement allowance.

(a) The nonmember spouse shall be eligible to retire if the following conditions are satisfied:

(1) The member had performed at least five years of creditable California service during the period of marriage, at least one year of which had been performed subsequent to the most recent refund to the member of accumulated contributions, if five of the member's six years of credited service immediately before the dissolution or legal separation had been in California. The credited service may include service credited to the account of the member as of the date of the dissolution or legal separation, previously refunded service, and permissive service credit which the member is eligible to purchase at the time of the dissolution or legal separation.

(2) The nonmember spouse has at least two and one-half years of credited service in his or her separate account.

(3) The nonmember spouse has attained the age of 55 years or more.

(b) A retirement allowance of a nonmember spouse shall become effective upon any date designated by the nonmember spouse, provided:

(1) The requirements of subdivision (a) are satisfied.

(2) The nonmember spouse has filed an application for retirement on a form provided by the system, which is executed no earlier than six months before the effective date of the retirement allowance.

(3) The effective date is no earlier than the first day of the month in which the application is received by the system in Sacramento and the effective date is after the date the judgment was entered.

(c) Upon retirement, the nonmember spouse shall receive a retirement allowance which shall consist of an annual allowance payable in monthly installments upon retirement at normal retirement age or over, equal to 2 percent of final compensation for each year of credited service. If the nonmember spouse's retirement is effective at less than normal retirement age and between early retirement age and normal retirement age, the retirement allowance shall be reduced by one-half of 1 percent for each full month, or fraction of a month, which will elapse until the nonmember spouse would have reached normal retirement age.

(1) In computing the retirement allowance of the nonmember spouse, the age of the nonmember spouse at the last day of the month in which the retirement allowance begins to accrue shall be used.

(2) Final compensation, for purposes of calculating the retirement allowance of the nonmember spouse under this subdivision, shall be calculated according to the definition of final compensation in Section 22127 and shall be based on the earnable compensation of the member on the date the parties separated, as established in the judgment or court order pursuant to Section 22652.

The nonmember spouse shall not be entitled to use any other calculation of final compensation.

(d) If the member is or was receiving a disability allowance with an effective date before or on the date the parties separated as established in the judgment or court order pursuant to Section 22652, or at any time applies for and receives a disability allowance with an effective date that is before or coincides with the date the parties separated as established in the judgment or court order pursuant to Section 22652, the nonmember spouse is not eligible to retire until after the disability allowance of the member terminates.

If the member who is or was receiving a disability allowance returns to a position requiring membership or has his or her allowance terminated under Section 23910, the nonmember spouse may not be paid a retirement allowance until at least six months after termination of the disability allowance and the return of the member to a position requiring membership, or the termination of the disability allowance and the employment or self-employment of the member. If at the end of the six-month period, the member has not had a recurrence of the original disability or has not had his or her earnings fall below the amounts described in Section 23910, the nonmember spouse may be paid a retirement allowance if all other eligibility requirements are met.

(1) The retirement allowance of the nonmember spouse under this subdivision shall be calculated as follows: the disability allowance the member was receiving, exclusive of the benefits for dependent children, shall be divided between the share of the member and the share of the nonmember spouse. The share of the nonmember spouse shall be the amount obtained by multiplying the disability allowance, exclusive of the benefits for dependent children, by the years of service credited to the separate account of the nonmember spouse, including service projected to the date of separation, and dividing by the projected service of the member. The nonmember spouse's retirement allowance will be the lesser of the share of the nonmember spouse under this subdivision or the retirement allowance under subdivision (c).

(2) The share of the member shall be the total disability allowance reduced by the share of the nonmember spouse. The share of the member shall be considered the disability allowance of the member for purposes of Sections 23911 and 24303.

(e) The nonmember spouse who receives a retirement allowance is not a retirant. However, the allowance of the nonmember spouse shall be increased by application of the improvement factor and shall be eligible for the application of supplemental increases and other benefit maintenance provisions, including, but not limited to, Sections 24003, 24701, and 24702, based on the same criteria used for the application of these benefit maintenance increases to the service retirement allowances of members.

22659. The system shall include the service credit awarded to a nonmember spouse in the judgment or court order to determine the eligibility of a member for a service retirement or disability allowance. That portion of awarded service credit based on

previously refunded contributions or on permissive service credit may not be used by the member for eligibility requirements until the member has redeposited or purchased his or her portion of such service credit. The retirement or disability allowance of a member shall be calculated based on the service credit in the account of the member on the effective date of disability or retirement.

22660. All separate accounts of a nonmember spouse shall be administered separately. Accumulated contributions, service credit, and final compensation attributable to a separate account of a nonmember spouse shall not be combined in any way and for any purpose with the accumulated contributions, service credit, and final compensation of any other separate account of the nonmember spouse.

In addition, accumulated contributions, service credit, and final compensation in the separate account of a nonmember spouse shall not be combined in any way and for any purpose with the accumulated contributions, service credit, and final compensation of an account which exists because the nonmember spouse is employed or has been employed in a position requiring membership in the system.

22661. The nonmember spouse is entitled to no benefits or rights from the separate account except as otherwise provided in this chapter. However, this section shall not be construed to limit any right arising from the account of a nonmember with the system which exists because the nonmember spouse is employed in a position requiring membership in the system.

22662. Upon the legal separation or dissolution of marriage of a retirant, the court may include in the judgment or court order a determination of the community property rights of the parties in the retirement allowance of the retirant consistent with this section. Upon election under subdivision (c) of Section 4800.8 of the Civil Code, the court order awarding the nonmember spouse a community property share in the benefits of a retirant shall be consistent with this section.

(a) If the court does not award the entire retirement allowance to the retirant and the retirant is receiving a retirement allowance under any section other than Section 24200, the court shall require only that the system pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance of the retirant.

(b) If the court does not award the entire retirement allowance to the retirant and the retirant is receiving an allowance which has been actuarially modified pursuant to Section 24200, the court shall order only one of the following:

(1) The retirant shall maintain the retirement allowance without change; or

(2) The retirant shall cancel the retirement allowance pursuant to Section 24200.1 and select a new joint and survivor option or a new beneficiary or both, and the system shall pay the nonmember spouse,

by separate warrant, his or her community property share of the retirement allowance of the retirant, the option beneficiary, or both.

(3) The retirant shall cancel the retirement allowance pursuant to Section 24200.1 and select an unmodified retirement benefit and the system shall pay the nonmember spouse, by separate warrant, his or her community property share of the retirement allowance of the retirant.

(c) If the option beneficiary, other than the nonmember spouse, dies before the retirant, the court shall order the retirant to select a new option beneficiary pursuant to Section 24200.2 and shall order the system to pay the nonmember spouse, by separate warrant, his or her share of the community property interest in the retirement allowance of the retirant or the new option beneficiary, or both.

(d) The right of the nonmember spouse to receive his or her community property share under this section shall terminate upon the death of the nonmember spouse. However, the nonmember spouse may designate a beneficiary to receive his or her community property share of accumulated retirement contributions in the event that accumulated retirement contributions become payable.

22663. Upon being awarded a separate account or an interest in the allowance of a retirant, a nonmember spouse shall provide the system with proof of his or her date of birth, social security number, and any other information requested by the system, in the form and manner requested by the system.

22664. No judgment or court order issued pursuant to this chapter is binding on the system until the system has been joined as a party to the action and has been served with a certified copy of the judgment or court order.

22665. The following provisions shall apply to a nonmember spouse as if he or she were a member or retirant: Sections 22108, 22221, 22230, 22807, 23010, 23801, 23923, 24500, and 24502, subdivisions (a) and (b) of Section 24600, Sections 24601, 24602, 24603, 24606, 24607, 24608, 24615, and 24616.

However, this section shall not be construed to establish any right in the nonmember spouse which is not explicitly established in Sections 22650 to 22663, inclusive.

22666. It is the intent of the Legislature to abolish any remaining application of the Terminable Interest Doctrine in California relating to the division of public retirement benefits in the event of dissolution of marriage or death.

SEC. 3. Section 23702 of the Education Code is amended to read:

23702. A member or retirant may at any time designate a beneficiary to receive those benefits as may be payable under this part, except that no beneficiary designation may be made in derogation of the community property share of any nonmember spouse when any such benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for distribution pursuant to Section

4800.8 of the Civil Code. Any change of beneficiary shall be in writing on a form prescribed by the system, executed by the member, witnessed by two witnesses, neither of whom may be beneficiaries. To be valid the instrument shall be received in the office of the system in Sacramento before the member's death.

Except as otherwise stated in this section, the designation of beneficiary, other than an option beneficiary, may be revoked at the pleasure of the person making the nomination, and a different beneficiary designated in the same manner as herein provided.

SEC. 4. Section 21204 of the Government Code is amended to read:

21204. A member may at any time designate a beneficiary to receive such benefits as may be payable to his or her beneficiary or estate under this part, by a writing filed with the board, except that no designation may be made in derogation of the community property share of any nonmember spouse when any such benefit is derived, in whole or in part, from community property contributions or service credited during the period of marriage, unless the nonmember spouse has previously obtained an alternative order for division pursuant to Section 4800.8 of the Civil Code.

The designation, subject to such conditions as may be imposed by board rule, may be by class, in which case the members of the class at the time of the member's death shall be entitled as beneficiaries. The designation shall also be subject to the board's conclusive determination, upon evidence satisfactory to it, of the existence, identity or other facts relating to entitlement of any person designated as beneficiary, and payment made by the system in reliance on any such determination made in good faith, notwithstanding that it may not have discovered a beneficiary otherwise entitled to share in the benefit, shall constitute a complete discharge and release of the system for further liability for the benefit.

SEC. 5. Section 21205 of the Government Code is amended to read:

21205. The designation of a beneficiary under optional settlements 2 and 3, or if a benefit involving the life contingency of the beneficiary is provided, then under optional settlement 4, is irrevocable from the time of the first payment on account of any retirement allowance. Otherwise a designation of beneficiary under this system is revocable at the pleasure of the member who made it. A member's marriage, dissolution of marriage, annulment of his or her marriage, the birth of his or her child, or his or her adoption of a child shall constitute an automatic revocation of his or her previous revocable designation of beneficiary. A member's termination of employment and withdrawal of contributions shall constitute an automatic revocation of the previous revocable designation of beneficiary and subsequent reemployment in employment covered by this retirement system shall not reinstate the previous designation of beneficiary. Any revocable designation of beneficiary in effect on

the operative date of this section which was filed prior to the occurrence of any of the conditions specified in this section shall become void and of no effect on that date.

Upon revocation of any beneficiary designation, a member may designate the same or another beneficiary by a writing filed with the board, except as otherwise provided in Section 21204.

SEC. 6. Article 1.2 (commencing with Section 21215) is added to Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code, to read:

Article 1.2. Community Property

21215. (a) Upon the legal separation or dissolution of marriage of a member, the court shall include in the judgment or a court order the date on which the parties separated.

(b) If the community property is divided in accordance with subdivision (c) of Section 4800.8 of the Civil Code, the court shall order that the accumulated contributions and service credit attributable to periods of service during the marriage be divided into two separate and distinct accounts in the name of the member and the nonmember, respectively. Any service credit or accumulated contributions which are not explicitly awarded by the judgment or court order shall be deemed the exclusive property of the member.

(c) The court shall address the rights of the nonmember to the following:

(1) The right to a retirement allowance, and the consequent right to elect an optional settlement and designate a beneficiary.

(2) The right to a refund of accumulated contributions.

(3) The right to redeposit accumulated contributions which are eligible for redeposit by the member under Sections 20654 and 20654.3.

(4) The right to purchase service credit which is eligible for purchase by the member under Article 4 (commencing with Section 20890) and Article 5 (commencing with Section 20930) of Chapter 7 of this part.

(5) The right to designate a beneficiary to receive his or her accumulated contributions payable where death occurs prior to retirement.

(6) The right to designate a beneficiary for any unpaid allowance payable at the time of the nonmember's death.

(7) The right to elect coverage in the second tier, provided that the election is made within one year of the establishment of the nonmember account or prior to the nonmember's retirement, whichever occurs first. Immediately upon establishment of a nonmember account, the board shall provide, by certified mail, the necessary form and information so that the election may be made.

(d) In the capacity of nonmember, he or she shall not be entitled to any disability or industrial disability retirement allowance, any basic death benefit, any special death benefit, any monthly allowance

for survivors of a member or retired person, any insurance benefit, or retired member lump sum death benefit. No survivor continuance allowance shall be payable to a survivor of a nonmember.

21215.1. "Nonmember," as used in this article, means the spouse or former spouse of a member, who as a result of petitioning the court for the division of community property, has been awarded a distinct and separate account reflecting specific credited service and accumulated contributions.

21215.2. (a) The nonmember who is awarded a separate account shall have the right to a refund of the accumulated contributions in the separate account of the nonmember.

(b) The nonmember shall file an application on a form provided by the system to obtain the refund.

(c) The refund shall be effective when the system deposits in the United States mail an initial warrant drawn in favor of the nonmember and addressed to the latest address for the nonmember on file with the system.

(d) The nonmember is deemed to have permanently waived all rights in the system and all rights to any future retirement benefits pertaining to the service credit accumulated contributions, or both, when the refund becomes effective.

(e) The nonmember may not cancel a refund once it has become effective.

(f) The nonmember shall have no right to elect to redeposit the refunded accumulated contributions from the nonmember's account after the refund is effective, and shall have no right to redeposit under Section 20654 or 20654.3, or to purchase service credit under Article 4 (commencing with Section 20890) or Article 5 (commencing with Section 20930) of Chapter 7 of this part after the refund becomes effective.

(g) If at the time of the marriage dissolution or legal separation, the member does not have the necessary minimum credited service to retire, the nonmember shall receive a refund of the accumulated contributions placed in the nonmember's account.

21215.3. (a) The nonmember who is awarded a separate account may redeposit accumulated contributions previously refunded to the member in accordance with the determination of the court required by Section 21215.

(b) The nonmember may redeposit only those accumulated contributions which were previously refunded to the member and which the court has determined to be the community property interest of the nonmember in the accumulated contributions.

(c) If the nonmember elects to redeposit, he or she shall repay the accumulated contributions pursuant to Section 20654 or Section 20654.3.

(d) An election to redeposit shall be considered an election to repay all accumulated contributions previously refunded that the nonmember is entitled to redeposit.

(e) The right of the nonmember to redeposit is subject to the

regulations of the board.

(f) The member has no right to redeposit the share of the nonmember in the previously refunded accumulated contributions whether or not the nonmember elects to redeposit. However, any right to redeposit previously refunded accumulated contributions not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(g) In the event the nonmember elected to redeposit upon retirement and has subsequently died, prior to completing the redeposit, the board shall file a claim against the estate of the decedent to recover benefit payments which exceeded those for which payment was made.

21215.4. (a) The nonmember shall have the right to purchase service credit pursuant to the determination of the court required by Section 21215.

(b) The nonmember may purchase only that service credit which the court, pursuant to Section 21215 has determined to be the community property interest of the nonmember spouse.

(c) If the nonmember elects to purchase service credit, he or she shall pay, prior to retirement, the contributions and interest required by Article 4 (commencing with Section 20890) and Article 5 (commencing with Section 20930) of Chapter 7 of this part and pursuant to the regulations of the board.

(d) The nonmember shall have no right to purchase the service credit after the effective date of a refund of the accumulated contributions in the separate account of the nonmember.

(e) The member has no right to purchase the community property interest of the nonmember of the service credit whether or not the nonmember elects to purchase the service credit. However, any service credit eligible for purchase that is not explicitly awarded to the nonmember by the judgment or court order shall be deemed the exclusive property of the member.

(f) In the event the nonmember elected to purchase service credits upon retirement and has subsequently died, prior to completing the purchase, the board shall file a claim against the estate of the deceased to recover benefit payments which exceeded those for which payment was made.

21215.5. A nonmember shall be retired upon his or her written application to the board if all of the following conditions are met:

(a) The nonmember has attained the minimum age prescribed by the applicable service retirement formula of the member.

(b) On the date of marriage dissolution or legal separation, the member had sufficient credited service to retire for service.

(c) On the date of application, the member has attained minimum retirement age to receive a service retirement allowance.

21215.6. Retirement shall be effective and the retirement allowance shall begin to accrue as of the date designated in the nonmember's application as the effective date of retirement, or the day following the date of court order dividing the community

property of the member and nonmember, if later. In no event shall the retirement become effective or the retirement allowance begin to accrue earlier than the first day of the month in which the nonmember's application is received at an office of the board or by an employee of the system designated by the board, or, if the nonmember has been incompetent to act on his or her own behalf continuously from the date of dissolution or legal separation, one year prior to the month in which an application by the guardian of his or her estate is so received. An application for retirement may only be filed by or for a nonmember who is living on the date the application is actually received by this system.

21215.7. For a nonmember, "final compensation" means the highest average annual compensation earnable by the member during the three consecutive years, or one year where applicable, prior to the date of dissolution of marriage or legal separation. The nonmember may designate an earlier period to be used where the time period of the nonmember's marriage to the member and membership correspond.

21215.8. A nonmember entitled to receive a retirement allowance shall receive a retirement allowance based on the service retirement formula applicable to the service credited to the nonmember.

The retirement allowance shall consist of a pension and an annuity, the latter of which shall be derived from the nonmember's accumulated contributions. The nonmember's retirement allowance, based upon the service credited by the employer and the nonmember's effective date of retirement, shall be subject to all cost-of-living increases, ad hoc increases, and increases provided through the Investment Dividend Disbursement Account.

SEC. 7. There is hereby appropriated from the Public Employees' Retirement Fund the sum of three hundred fifty thousand dollars ($350,000) for expenditure to implement Article 1.2 (commencing with Section 21215) of Chapter 9 of Part 3 of Division 5 of Title 2 of the Government Code. If the cost of implementing and administering this act exceeds the amount of this appropriation, the Board of Administration of the Public Employees' Retirement System shall establish and levy a fee on the member or nonmember, or both, in an amount sufficient to cover the board's actual expenses in establishing and maintaining nonmember accounts, not to exceed four dollars ($4) per month. This fee shall be drawn from the member or nonmember accounts, or both, as determined by the courts.

SEC. 8. It is the intent of the Legislature that this act apply to all public retirement benefits in which there is an undivided community property interest and in all dissolution of marriage or legal separation cases which are pending on the effective date of this act or in which the court has reserved jurisdiction over the benefit or not yet awarded the benefit.

SEC. 9. This act shall be deemed to be retroactive to June 1, 1988.

SEC. 10. Nothing in this act shall be construed to create or vest in the nonmember spouse, as defined in Sections 22651 of the Education Code and 21215.1 of the Government Code, any class of entitlement or benefits that would not be available to the nonmember spouse had he or she been a member of the system for the same time and upon the same terms as the member spouse. Additionally, nothing in this act shall be construed to make the nonmember spouse a member of the Public Employees' Retirement System or the State Teachers' Retirement System. Entitlements and benefits for which the nonmember spouse is not eligible shall include, but not be limited to, health benefits, dental benefits, and vision care.

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

In order that a mechanism may be established at the earliest possible time for the division of community property retirement benefits under the State Teachers' Retirement System and the Public Employees' Retirement System in a legal separation or marriage dissolution proceeding, it is necessary that this act take effect immediately.

CHAPTER 543

An act to repeal Section 99267 of the Public Utilities Code, relating to transportation.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 99267 of the Public Utilities Code is repealed.

CHAPTER 544

An act to amend Sections 22754.1 and 75028.2 of the Government Code, relating to judges.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 22754.1 of the Government Code is amended to read:

22754.1. As used in this part, unless the context otherwise requires, the term "employee" includes any judge of a municipal court, and the terms "employer" and "contracting agency" with respect to any such judge enrolled in a health benefits plan include the county in which the municipal court is located, provided that adoption of a resolution under Section 22850 shall not be required. The state is not obligated to make any contribution to health benefit plans for active and retired municipal court judges, except for municipal court judges serving on senior judge status and then only during the time as a municipal court judge is actively serving as a senior judge. A municipal court judge may elect to come under the provisions of this part only within 90 days of assuming office for the first time as such a judge. If a municipal court judge elects to come under the provisions of this part, the county employing the judge shall contribute to the Public Employees' Contingency Reserve Fund the sums as it would have otherwise contributed to a health benefit plan provided for county employees, unless the municipal court judge elects to enroll under the county health benefit plan. Those contributions shall be applied first to the contribution required of it as an employer under Section 22831 and any remainder shall be applied to the contribution required under Sections 22825 and 22825.6. The municipal court judge whether enrolled as an employee or annuitant shall contribute the cost of such enrollment plus the amount required of an employer under Section 22831 less the amount, if any, contributed by his or her county. A county shall not be required to contribute any portion of the cost of a health benefits plan under this part for a judge after retirement unless the health benefits plan provided for county employees provides such coverage.

SEC. 2. Section 75028.2 of the Government Code is amended to read:

75028.2. A retired judge on senior judge status shall not receive a retirement allowance, except for health and welfare benefits generally available to judges of courts on which the judge served as an active judge.

The Controller shall administer payment of salary to retired judges on senior judge status and for making any appropriate deductions.

CHAPTER 545

An act to amend Sections 25250.1, 25250.8, 25250.10, 25250.11, 25250.16, 25250.17, 25250.18, and 25250.19 of the Health and Safety Code, relating to oil.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 25250.1 of the Health and Safety Code is amended to read:

25250.1. As used in this article, the following terms have the following meanings:

(a) "Used oil" means any of the following:

(1) Any oil that has been refined from crude oil, and has been used, and, as a result of use, has been contaminated with physical or chemical impurities.

(2) Any oil that has been refined from crude oil and, as a consequence of extended storage, spillage, or contamination with nonhazardous impurities such as dirt and water, is no longer useful to the original purchaser.

(3) Spent lubricating fluids which have been removed from an engine crankcase, transmission, gearbox, or differential of an automobile, bus, truck, vessel, plane, heavy equipment, or machinery powered by an internal combustion engine.

(4) Spent industrial oils, including compressor, turbine, and bearing oil, hydraulic oil, metal-working oil, refrigeration oil, and railroad drainings.

(5) Contaminated fuel oil with a flashpoint equal to or greater than 100°F.

"Used oil" does not include oil which has a flashpoint below 100°F or which has been intentionally mixed with hazardous waste, other than minimal amounts of vehicle fuel. "Used oil" also does not include oil which contains polychlorinated biphenyls (PCBs) at a concentration of 5 ppm or greater.

(b) "Board" means the California Waste Management Board.

(c) "Recycled oil" means any oil, produced from used oil, which has been prepared for reuse and which achieves minimum standards of purity, in liquid form, as established by the department. The following standards of purity are in effect unless the department, by regulation, establishes more stringent standards:

(1) Flashpoint: minimum standards set by the American Society for Testing and Materials for the recycled products.

(2) Lead: 100 ppm or less prior to January 1, 1988; 50 ppm or less on and after January 1, 1988.

(3) Arsenic: 5 ppm or less.

(4) Chromium: 10 ppm or less.

(5) Cadmium: 2 ppm or less.
(6) Total halogens: 3,000 ppm or less.
(7) Polychlorinated biphenyls (PCBs): 5 ppm or less.

Compliance with these standards shall be determined in accordance with the procedures in Article 11 (commencing with Section 66693) of Chapter 30 of Division 4 of Title 22 of the California Administrative Code.

(d) The standards set in subdivision (c) include the only concentrations allowed above the criteria adopted pursuant to Section 25141.

(e) Used oil which meets the standards set in subdivision (c) and the criteria adopted pursuant to Section 25141 for constituents other than those listed in subdivision (c) is not regulated by the department. Any person who generates used oil and who claims that the oil meets those standards and criteria, shall notify the department, in writing, of its claim and shall comply with the testing and recordkeeping requirements of Section 25250.19 prior to its reuse. In any action to enforce this article, the burden is on the generator and user of the used oil to prove that the oil met those standards and criteria.

(f) "Used oil recycling facility" means a facility which reprocesses or rerefines used oil.

(g) "Used oil storage facility" means a storage facility, as defined in subdivision (a) of Section 25123.3, which stores used oil.

(h) "Used oil transfer facility" means a transfer facility, as defined in subdivision (c) of Section 25123.3, that either stores used oil for periods greater than 144 hours or that transfers used oil from one container to another.

SEC. 2. Section 25250.8 of the Health and Safety Code is amended to read:

25250.8. Used oil shall be manifested under either one of the following procedures:

(a) The procedures prescribed by Sections 25160 and 25161.

(b) The following modified manifesting procedure, which may be used only by a registered hazardous waste hauler and shall be used only with the consent of the generator:

(1) A separate manifest shall be completed by each vehicle driver, with respect to each transport vehicle operated by that driver for each date.

(2) The hauler shall complete both the generator's and the hauler's sections of the manifest using the hauler's name, Environmental Protection Agency identification number, terminal address, and phone number. The hauler's section shall be completed prior to commencing each day's used oil collections. The driver shall sign and date the generator's and hauler's sections of the manifest.

(3) The hauler shall attach to the front of the manifest legible receipts for each quantity of used oil that is received from a generator. The receipts shall be used to determine the total volume of used oil in the vehicle. After the used oil is delivered, the receipts

shall be affixed to the hauler's copy of the manifest. The hauler shall leave a copy of the receipt with the generator of the used oil. The generator shall retain each receipt for at least three years.

(4) All copies of each receipt shall contain all of the following information:

(A) The name, address, and telephone number of the generator, and the signature of the generator or the generator's representative.

(B) The date of the shipment.

(C) The state manifest number.

(D) The volume of the used oil received and its proper shipping description, including the hazardous class and identification number, if applicable.

(E) The name and the address of the permitted facility to which the used oil will be transported.

(F) The hauler's name, address, and Environmental Protection Agency identification number.

(G) The driver's signature.

(5) The hauler shall enter the total volume of used oil transported on the manifest at the change of each date, change of driver, change of transport vehicle, or upon the last delivery of used oil to the designated facility. The total volume shall be the cumulative amount of used oil collected from the generators listed on the individual receipts.

(6) The hauler shall submit the generator copy of the manifest to the department within 30 days of each shipment.

(7) The hauler shall retain a copy of the manifest and all receipts for each manifest for three years.

(8) The hauler shall submit all copies of the manifest to the designated facility. A representative of the designated facility which receives the used oil shall sign and date the manifest, return two copies to the hauler, retain one copy, and send the original to the department within 30 days.

(9) All other manifesting requirements of Sections 25160 and 25161 shall be complied with unless specifically exempted under this subdivision.

SEC. 3. Section 25250.10 of the Health and Safety Code is amended to read:

25250.10. Every registered hazardous waste hauler who transports used oil shall report to the department, on or before March 1 of each year, the following information on a form provided by the department:

(a) The shipping descriptions of used oil transported during the preceding calendar year.

(b) The volume of each type of used oil transported, identified by shipping description.

(c) The facilities to which the used oil was transported, identified by name, address, telephone number, and Environmental Protection Agency identification number.

SEC. 4. Section 25250.11 of the Health and Safety Code is

amended to read:

25250.11. (a) Any person who receives used oil from consumers or other used oil generators, is exempt from hazardous waste facility permit requirements imposed pursuant to Article 9 (commencing with Section 25200) with respect to any location at which used oil is received if all of the following conditions are met:

(1) Each shipment of used oil received does not exceed 20 gallons, and the contents of any single container does not exceed five gallons.

(2) Other than lead-acid storage batteries and antifreeze, no other hazardous wastes are received at the location.

(3) The used oil is transported by the generator of the used oil.

(b) Any person who transports used oil is exempt from the requirements of subdivisions (a) and (e) of Section 25163 and from the requirements of Section 25160 concerning the possession of a manifest while transporting used oil if all of the following conditions are met:

(1) The contents of any single container do not exceed five gallons.

(2) Each shipment of used oil does not exceed 20 gallons.

(3) The person transporting the used oil had generated the oil.

SEC. 5. Section 25250.16 of the Health and Safety Code is amended to read:

25250.16. No person may recycle used oil without obtaining a permit from the department unless exempted by Section 25143.2 or 25200.5 or other provisions of law.

SEC. 6. Section 25250.17 of the Health and Safety Code is amended to read:

25250.17. Unless the facility meets the requirements of Section 25250.11, each used oil recycling, storage, or transfer facility shall submit a report, on or before March 1 of each year, to the department, on a form provided by the department, containing all of the following information:

(a) The total volume of used oil possessed at the beginning and end of the preceding calendar year.

(b) The total volume of used oil received during the preceding calendar year.

(c) The total volume of used oil recycled during the preceding calendar year, itemized as follows:

(1) Prepared for reuse as a petroleum product.

(2) Consumed in the process of preparing for reuse, including wastes generated.

(3) Prepared for reuse other than as a petroleum product, specifying each type of other use.

(4) Not recycled but transported offsite.

(d) Any other information which the department may require.

SEC. 7. Section 25250.18 of the Health and Safety Code is amended to read:

25250.18. Any person who transports recycled oil shall maintain with each shipment of recycled oil the shipment's destination and a

signed and dated form, provided by the department, from the recycling facility certifying that the oil being transported has been tested and is in compliance with the standards specified in subdivision (c) of Section 25250.1.

SEC. 8. Section 25250.19 of the Health and Safety Code is amended to read:

25250.19. A used oil recycler shall ensure that all recycled oil transported from the recycling facility has been tested and certified as being in compliance with the standards specified by subdivision (c) of Section 25250.1. Records of tests performed and a copy of each form completed pursuant to Section 25250.18 shall be maintained for three years and are subject to audit and verification by the department or the board.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 546

An act to amend Section 286 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 286 of the Vehicle Code is amended to read:

286. The term "dealer" does not include:

(a) Insurance companies, banks, finance companies, public officials, or any other person coming into possession of vehicles in the regular course of business, who sells vehicles under a contractual right or obligation, or in performance of an official duty, or in authority of any court of law; provided, the sale is for the purpose of saving the seller from loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute vehicles of a type subject to registration for a manufacturer to vehicle dealers licensed under this code, or who are employed by manufacturers or distributors to promote the sale of vehicles dealt in by those manufacturers or distributors; provided, however, that if any of those persons also sell vehicles at retail, they shall be deemed to be vehicle dealers and are subject to this code.

(c) Persons regularly employed as salesmen by vehicle dealers licensed under this code while acting within the scope of that

employment.

(d) Persons engaged exclusively in the bona fide business of exporting vehicles or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States, if, no federal excise tax is legally payable or refundable on any of the transactions. Persons not engaged exclusively in the bona fide business of exporting vehicles but who are engaged in the business of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of the vehicles produces less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of vehicles as a business, who dispose of any vehicle acquired and used in good faith, for their own personal use, or for use in their business, and not for the purpose of avoiding the provisions of this code.

(f) Persons who are engaged in the purchase, sale or exchange of vehicles, other than motorcycles subject to identification under this code, which are not intended for use on the highways.

(g) Persons temporarily retained as auctioneers solely for the purpose of disposing of vehicle stock inventories by means of public auction on behalf of the owners at the owners' place of business, or as otherwise approved by the department, provided that intermediate physical possession or control of, or an ownership interest in the inventory is not conveyed to the persons so retained.

(h) Persons who are engaged exclusively in the business of purchasing, selling, servicing, or exchanging racing vehicles, parts for racing vehicles, and trailers designed and intended by the manufacturer to be used exclusively for carrying racing vehicles. For purposes of this subdivision, "racing vehicle" means a motor vehicle of a type used exclusively in a contest of speed or in a competitive trial of speed which is not intended for use on the highways.

(i) Any person who is a "lessor" as defined in Section 372.

(j) Any person who is a "renter" as defined in Section 508.

(k) Any "salvage pool" as defined in Section 543.

(*l*) Any yacht broker who is subject to the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code) and who sells used boat trailers in conjunction with the sale of a vessel.

(m) Any licensed "automobile dismantler" as defined in Section 220 who sells vehicles that have been reported for dismantling as provided in Section 11520.

CHAPTER 547

An act to amend Section 1275 of the Penal Code, relating to bail.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 1275 of the Penal Code is amended to read:

1275. In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration. No bail bond shall be accepted unless the judge or magistrate be convinced that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.

In considering the seriousness of the offense charged, the judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge or magistrate shall consider the alleged amounts of controlled substances involved in the commission of the offense.

SEC. 2. Section 1275 of the Penal Code is amended to read:

1275. In setting, reducing, or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration. No bail bond shall be accepted unless the judge or magistrate be convinced that no portion of the consideration, pledge, security, deposit, or indemnification paid, given, made, or promised for its execution was feloniously obtained.

In considering the seriousness of the offense charged, the judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge or magistrate shall consider the

following: (1) the alleged amounts of controlled substances involved in the commission of the offense, and (2) whether the defendant is currently released on bail for an alleged violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1275 of the Penal Code proposed by both this bill and AB 3314. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 1275 of the Penal Code, and (3) this bill is enacted after AB 3314, in which case Section 1 of this bill shall not become operative.

CHAPTER 548

An act to amend Section 66474.2 of the Government Code, relating to subdivisions.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 66474.2 of the Government Code is amended to read:

66474.2. (a) Except as otherwise provided in subdivision (b) or (c), in determining whether to approve or disapprove an application for a tentative map, the local agency shall apply only those ordinances, policies, and standards in effect at the date the local agency has determined that the application is complete pursuant to Section 65943 of the Government Code.

(b) Subdivision (a) shall not apply to a local agency which, before it has determined a tentative map to be complete pursuant to Section 65943, has done both of the following:

(1) Initiated proceedings by way of ordinance, resolution, or motion.

(2) Published notice in the manner prescribed in subdivision (a) of Section 65090 containing a description sufficient to notify the public of the nature of the proposed change in the applicable general or specific plans, or zoning or subdivision ordinances.

A local agency which has complied with this subdivision may apply any ordinances, policies, or standards enacted or instituted as a result of those proceedings which are in effect on the date the local agency approves or disapproves the tentative map.

(c) If the subdivision applicant requests changes in applicable ordinances, policies or standards in connection with the same development project, any ordinances, policies or standards adopted pursuant to the applicant's request shall apply.

SEC. 2. Notwithstanding Section 17610 of the Government Code,

if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 549

An act to amend Sections 22005, 22408, 24005, 24408, and 26408 of, and to repeal Sections 22409 and 24409 of, the Financial Code, relating to loans.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 22005 of the Financial Code is amended to read:

22005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 22458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for the privilege of participating in an open-end credit program, which fees are to cover administrative costs and are imposed upon executing the open-end loan agreement and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to

repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 22465 and 22465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 22404.

SEC. 2. Section 22408 of the Financial Code is amended to read:

22408. (a) Each licensee shall file a report with the commissioner annually on or before the 15th day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each licensed place of business within the state conducted by the licensee. The individual annual reports filed pursuant to this section shall be made available to the public for inspection.

The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make such other special reports to the commissioner as the commissioner may from time to time require.

SEC. 3. Section 22409 of the Financial Code is repealed.

SEC. 4. Section 24408 of the Financial Code is amended to read:

24408. (a) Each licensee shall file a report with the commissioner annually on or before the 15th day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each licensed place of business within the state conducted by the licensee. The individual annual reports filed pursuant to this section shall be made available to the public for inspection.

The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make such other special reports to the commissioner as the commissioner may from time to time require.

SEC. 5. Section 24409 of the Financial Code is repealed.

SEC. 6. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include any of the following:

(a) Commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 24458.

(b) Amounts not in excess of the amounts specified in subdivision (c) of Section 3068 of the Civil Code paid to holders of possessory liens, imposed pursuant to Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code, to release motor vehicles which secure loans subject to this division.

(c) Court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan.

(d) Fees paid to a licensee for the privilege of participating in an open-end credit program, which fees are to cover administrative

costs and are imposed upon executing the open-end loan agreement and on annual renewal dates or anniversary dates thereafter.

(e) Amounts received by a licensee from a seller, from whom the borrower obtains money, goods, labor, or services on credit, in connection with a transaction under an open-end credit program which are paid or deducted from the loan proceeds paid to the seller at the direction of the borrower and which are an obligation of the seller to the licensee for the privilege of allowing the seller to participate in the licensee's open-end credit program. Amounts received by a licensee from a seller pursuant to this subdivision may not exceed 6 percent of the loan proceeds paid to the seller at the direction of the borrower.

(f) Actual fees not exceeding one hundred fifty dollars ($150) paid in connection with the repossession of a motor vehicle to repossession agencies licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code provided the licensee complies with Sections 24465 and 24465.5.

(g) Moneys paid to, and commissions and benefits received by, a licensee for the sale of goods, services, or insurance, whether or not the sale is in connection with a loan, that the buyer by a separately signed authorization acknowledges is optional, if sale of the goods, services, or insurance has been authorized pursuant to Section 24404.

SEC. 7. Section 26408 of the Financial Code is amended to read:

26408. (a) Each licensee shall file a report with the commissioner annually on or before the 15th day of March, giving such relevant information as the commissioner reasonably requires concerning the business and operations during the preceding calendar year of each licensed place of business within the state conducted by the licensee. The individual annual reports filed pursuant to this section shall be made available to the public for inspection.

The report shall be made under oath and in the form prescribed by the commissioner.

(b) A licensee shall make such other special reports to the commissioner as the commissioner may from time to time require.

CHAPTER 550

An act to add Section 35407.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 35407.5 is added to the Vehicle Code, to read:

35407.5. Section 35406 and subdivisions (a) and (d) of Section 35407 do not apply to the booms or masts of a self-propelled heel-boom log loader first sold in this state prior to January 1, 1988, if all of the following conditions are met:

(a) A system of mirrors or other view enhancements permits the driver to see in any area blocked from view.

(b) The log loader is operated together with a four wheeled lead vehicle which remains a reasonable distance ahead to guide the movement of the log loader.

(c) Two-way radio communication equipment is maintained in good working condition on the log loader and the pilot car, and is used between those vehicles during movement upon any highway.

CHAPTER 551

An act to amend Sections 1239 and 1240.1 of the Penal Code, relating to courts.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1 Section 1239, as added to the Penal Code by Section 4 of Chapter 917 of the Statutes of 1982, is amended to read:

1239. (a) Where an appeal lies on behalf of the defendant or the people, it may be taken by the defendant or his or her counsel, or by counsel for the people, in the manner provided in rules adopted by the Judicial Council.

(b) When upon any plea a judgment of death is rendered, an appeal is automatically taken by the defendant without any action by him or her or his or her counsel. The defendant's trial counsel, whether retained by the defendant or court appointed, shall continue to represent the defendant until completing the additional duties set forth in paragraph (1) of subdivision (e) of Section 1240.1.

SEC. 2. Section 1240.1, as added to the Penal Code by Section 6 of Chapter 917 of the Statutes of 1982, is amended to read:

1240.1. (a) In any noncapital criminal, juvenile court, or civil commitment case wherein the defendant would be entitled to the appointment of counsel on appeal if indigent, it shall be the duty of the attorney who represented the person at trial to provide counsel and advice as to whether arguably meritorious grounds exist for reversal or modification of the judgment on appeal. The attorney shall admonish the defendant that he or she is not able to provide advice concerning his or her own competency, and that the State Public Defender or other counsel should be consulted for advice as to whether an issue regarding the competency of counsel should be raised on appeal. The trial court may require trial counsel to certify

that he or she has counseled the defendant as to whether arguably meritorious grounds for appeal exist at the time a notice of appeal is filed. Nothing in this section shall be construed to prevent any person having a right to appeal from doing so.

(b) It shall be the duty of every attorney representing an indigent defendant in any criminal, juvenile court, or civil commitment case to execute and file on his or her client's behalf a timely notice of appeal when the attorney is of the opinion that arguably meritorious grounds exist for a reversal or modification of the judgment or orders to be appealed from, and where, in the attorney's judgment, it is in the defendant's interest to pursue such relief as may be available to him or her on appeal; or when directed to do so by a defendant having a right to appeal.

With the notice of appeal the attorney shall file a brief statement of the points to be raised on appeal and a designation of any document, paper, pleading, or transcript of oral proceedings necessary to properly present those points on appeal when the document, paper, pleading or transcript of oral proceedings would not be included in the normal record on appeal according to the applicable provisions of the California Rules of Court. The executing of the notice of appeal by the defendant's attorney shall not constitute an undertaking to represent the defendant on appeal unless the undertaking is expressly stated in the notice of appeal.

If the defendant was represented by appointed counsel on the trial level, or if it appears that the defendant will request the appointment of counsel on appeal by reason of indigency, the trial attorney shall also assist the defendant in preparing and submitting a motion for the appointment of counsel and any supporting declaration or affidavit as to the defendant's financial condition. These documents shall be filed with the trial court at the time of filing a notice of appeal, and shall be transmitted by the clerk of the trial court to the clerk of the appellate court within three judicial days of their receipt. The appellate court shall act upon that motion without unnecessary delay. An attorney's failure to file a motion for the appointment of counsel with the notice of appeal shall not foreclose the defendant from filing a motion at any time it becomes known to him or her that the attorney has failed to do so, or at any time he or she shall become indigent if he or she was not previously indigent.

(c) The State Public Defender shall, at the request of any attorney representing a prospective indigent appellant or at the request of the prospective indigent appellant himself or herself, provide counsel and advice to the prospective indigent appellant or attorney as to whether arguably meritorious grounds exist on which the judgment or order to be appealed from would be reversed or modified on appeal.

(d) The failure of a trial attorney to perform any duty prescribed in this section, assign any particular point or error in the notice of appeal, or designate any particular thing for inclusion in the record on appeal shall not foreclose any defendant from filing a notice of

appeal on his or her own behalf or from raising any point or argument on appeal; nor shall it foreclose the defendant or his or her counsel on appeal from requesting the augmentation or correction of the record on appeal in the reviewing court.

(e) (1) In order to expedite certification of the entire record on appeal in all capital cases, defendant's trial counsel, whether retained by the defendant or court-appointed, shall continue to represent the defendant until the entire record on the automatic appeal is certified. In any capital case, trial counsel shall check that the entire record on appeal has been prepared, and shall check for errors or omissions in that record and request any corrections thereto within the time provided by rules adopted by the Judicial Council.

(2) The duties imposed on trial counsel in paragraph (1) shall not foreclose the defendant's appellate counsel from requesting additions or corrections to the entire record on appeal in either the trial court or the Supreme Court.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 552

An act to add Section 17741.3 to the Education Code, relating to school facilities.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 17741.3 is added to the Education Code, to read:

17741.3. For the purposes of Sections 17741 and 17741.5, allowable building area may be computed, in the alternative to the methods prescribed by Section 17741, for any combination of two or more adjacent high school attendance areas pursuant to the following conditions:

(a) The project to be funded is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(b) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school

attendance areas.

(c) The combined computation of allowable building area reflects the allowable building area to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.

CHAPTER 553

An act to amend Sections 2017, 2019, 2025, 2030, 2032, 2033, and 2034 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor August 23, 1988 Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 2017 of the Code of Civil Procedure is amended to read:

2017. (a) Unless otherwise limited by order of the court in accordance with this article, any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. Discovery may relate to the claim or defense of the party seeking discovery or of any other party to the action. Discovery may be obtained of the identity and location of persons having knowledge of any discoverable matter, as well as of the existence, description, nature, custody, condition, and location of any document, tangible thing, or land or other property.

(b) A party may obtain discovery of the existence and contents of any agreement under which any insurance carrier may be liable to satisfy in whole or in part a judgment that may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. This discovery may include the identity of the carrier and the nature and limits of the coverage. A party may also obtain discovery as to whether that insurance carrier is disputing the agreement's coverage of the claim involved in the action, but not as to the nature and substance of that dispute. Information concerning the insurance agreement is not by reason of disclosure admissible in evidence at trial.

(c) The court shall limit the scope of discovery if it determines that the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood that the information sought will lead to the discovery of admissible evidence. The court may make this determination pursuant to a motion for protective order by a party

or other affected person. This motion shall be accompanied by a declaration stating facts showing a good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(d) In any civil action alleging conduct that constitutes sexual harassment, sexual assault, or sexual battery, any party seeking discovery concerning the plaintiff's sexual conduct with individuals other than the alleged perpetrator is required to establish specific facts showing good cause for that discovery, and that the matter sought to be discovered is relevant to the subject matter of the action and reasonably calculated to lead to the discovery of admissible evidence. This showing shall be made by noticed motion and shall not be made or considered by the court at an ex parte hearing. This motion shall be accompanied by a declaration stating facts showing a good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for discovery, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

SEC. 2. Section 2019 of the Code of Civil Procedure is amended to read:

2019. (a) Any party may obtain discovery by one or more of the following methods:

(1) Oral and written depositions.

(2) Interrogatories to a party.

(3) Inspections of documents, things, and places.

(4) Physical and mental examinations.

(5) Requests for admissions.

(6) Simultaneous exchanges of expert trial witness information.

(b) The court shall restrict the frequency or extent of use of these discovery methods if it determines either of the following:

(1) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive.

(2) The selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation.

The court may make these determinations pursuant to a motion for a protective order by a party or other affected person. This motion shall be accompanied by a declaration stating facts showing a good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(c) Unless there is a rule of the Judicial Council, or a local court rule or local uniform written policy to the contrary, the methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or another method, shall not operate to delay the discovery of any other party. However, on motion and for good cause shown, the court may establish the sequence and timing of discovery for the convenience of parties and witnesses and in the interests of justice.

(d) In any action alleging the misappropriation of a trade secret under the Uniform Trade Secrets Act (Title 5 (commencing with Section 3426) of Part 1 of Division 4 of the Civil Code), before commencing discovery relating to the trade secret, the party alleging the misappropriation shall identify the trade secret with reasonable particularity subject to any orders that may be appropriate under Section 3426.5 of the Civil Code.

(e) The provisions of subdivision (a) of Section 1013 relating to extensions of time where service is made by mail shall be applicable to any discovery method or motion in this article.

SEC. 3. Section 2025 of the Code of Civil Procedure is amended to read:

2025. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

(b) Subject to the provisions of subdivisions (f) and (t), an oral deposition may be taken as follows:

(1) The defendant may serve a deposition notice without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.

(2) The plaintiff may serve a deposition notice without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. However, on motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to serve a deposition notice on an earlier date.

(c) A party desiring to take the oral deposition of any person shall give notice in writing in the manner set forth in subdivision (d). However, where under subdivision (d) of Section 2020 only the production by a nonparty of business records for copying is desired, a copy of the deposition subpoena shall serve as the notice of deposition. The notice of deposition shall be given to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys

for parties on whom it is served.

Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the subpoenaing party shall serve on that consumer (1) a notice of the deposition, (2) the notice of privacy rights specified in subdivision (e) of Section 1985.3, and (3) a copy of the deposition subpoena.

(d) The deposition notice shall state all of the following:

(1) The address where the deposition will be taken.

(2) The date of the deposition, selected under subdivision (f), and the time it will commence.

(3) The name of each deponent, and the address and telephone number, if known, of any deponent who is not a party to the action. If the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

(4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.

(5) Any intention to record the testimony by audio tape or video tape, in addition to recording the testimony by the stenographic method as required by paragraph (1) of subdivision (*l*).

(6) Any intention to reserve the right to use at trial a video tape deposition of a treating or consulting physician or of any expert witness under paragraph (4) of subdivision (u). In this event, the operator of the video tape camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent. A deposition subpoena shall advise a nonparty deponent of its duty to make this designation, and shall describe with reasonable particularity the matters on which examination is requested.

If the attendance of the deponent is to be compelled by service of a deposition subpoena under Section 2020, an identical copy of that subpoena shall be served with the deposition notice.

(e) (1) The deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence, unless the court orders otherwise under paragraph (3).

(2) The deposition of an organization that is a party to the action

shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive or business office in California, or within the county where the action is pending and within 150 miles of that office. The deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in California, unless the organization consents to a more distant place. If the organization has not designated a principal executive or business office, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office of the organization in California.

(3) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more distant than that permitted under paragraph (1). This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

(A) Whether the moving party selected the forum.

(B) Whether the deponent will be present to testify at the trial of the action.

(C) The convenience of the deponent.

(D) The feasibility of conducting the deposition by written questions under Section 2028, or of using a discovery method other than a deposition.

(E) The number of depositions sought to be taken at a place more distant than that permitted under paragraph (1).

(F) The expense to the parties of requiring the deposition to be taken within the distance permitted under paragraph (1).

(G) The whereabouts of the deponent at the time for which the deposition is scheduled.

The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsucessfully makes or opposes a motion to increase travel limits for party-deponent, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a)

of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena.

On motion of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under subdivision (i).

(g) Any party served with a deposition notice that does not comply with subdivisions (b) to (f), inclusive, waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served. If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under subdivision (u) if the party did not attend the deposition and if the court determines that the objection was a valid one.

In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The taking of the deposition is stayed pending the determination of this motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to quash a deposition notice, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(h) (1) The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(2) The attendance and testimony of any other deponent, as well as the production by the deponent of any document or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Section 2020.

(i) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice

requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the deposition not be taken at all.

(2) That the deposition be taken at a different time.

(3) That a video tape deposition of a treating or consulting physician or of any expert witness, intended for possible use at trial under paragraph (4) of subdivision (u), be postponed until the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent, or other means, for cross-examination.

(4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by subdivision (e).

(5) That the deposition be taken only on certain specified terms and conditions.

(6) That the deponent's testimony be taken by written, instead of oral, examination.

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(8) That the testimony be recorded in a manner different from that specified in the deposition notice.

(9) That certain matters not be inquired into.

(10) That the scope of the examination be limited to certain matters.

(11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.

(12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.

(13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.

(14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.

(15) That the deposition be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) (1) If the party giving notice of a deposition fails to attend or

proceed with it, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, and in favor of any party attending in person or by attorney, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in subdivision (h) of Section 2020.

(3) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under subdivision (d), without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. This motion (A) shall set forth specific facts showing good cause justifying the production for inspection of any document or tangible thing described in the deposition notice, and (B) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by it. If this motion is granted, the court shall also impose a monetary sanction under Section 2023 against the deponent or the party with whom the deponent is affiliated, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. On motion of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, the court shall also impose a monetary sanction under Section 2023, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make those orders that are just, including the imposition of an issue

sanction, an evidence sanction, or a terminating sanction under Section 2023 against that party deponent or against the party with whom the deponent is affiliated. In lieu of or in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that deponent or against the party with whom that party deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

(k) Except as provided in paragraph (3) of subdivision (d) of Section 2020, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath. This officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of any of the parties. Any objection to the qualifications of the deposition officer is waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

(*l*) (1) The deposition officer shall put the deponent under oath. Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. The party noticing the deposition may also record the testimony by audio tape or video tape if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of those methods. Any other party, at that party's expense, may make a simultaneous audio tape or video tape record of the deposition, provided that other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to audio tape or video tape the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under subdivision (c), and on any deponent whose attendance is being compelled by a deposition subpoena under Section 2020. If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011. Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(2) If the deposition is being recorded by means of audio tape or video tape, the following procedure shall be observed:

(A) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(B) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this subdivision. The operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer. However, if a video tape of deposition testimony is to be used under paragraph (4) of subdivision (u), the operator of the recording equipment shall be a person who is authorized to

administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(C) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(D) The deposition shall begin with an oral or written statement on camera or on the audio tape that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(E) Counsel for the parties shall identify themselves on camera or on the audio tape.

(F) The oath shall be administered to the deponent on camera or on the audio tape.

(G) If the length of a deposition requires the use of more than one unit of tape, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audio tape.

(H) At the conclusion of a deposition, a statement shall be made on camera or on the audio tape that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audio tape or video tape recording and the exhibits, or concerning other pertinent matters.

(I) A party intending to offer an audio taped or video taped recording of a deposition in evidence under subdivision (u) shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing , and for any editing of the tape. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audio taped or video taped deposition that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition tape be prepared for use at the trial or hearing. The original audio tape or video tape of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering a video tape or an audio tape recording of that testimony under subdivision (u) shall accompany that offer with a stenographic transcript prepared from that recording.

(3) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal

the envelope and propound them to the deponent after the oral examination has been completed.

(m) (1) The protection of information from discovery on the ground that it is privileged or that it is protected work product under Section 2018 is waived unless a specific objection to its disclosure is timely made during the deposition.

(2) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under subdivision (n), the deposition shall proceed subject to the objection.

(3) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(4) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under subdivision (o).

(n) On demand of any party or the deponent, the deposition officer shall suspend the taking of testimony to enable that party or deponent to move for a protective order on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court, for good cause shown, may terminate the examination or may limit the scope and manner of taking the deposition as provided in subdivision (i). If the order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for this protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(o) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that

answer or production. This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice. Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audio tape or video tape, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion. If the court determines that the answer or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent fails to obey an order entered under this subdivision, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to this sanction, the court may impose a monetary sanction under Section 2023 against that party deponent or against any party with whom the deponent is affiliated.

(p) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed. The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party. Any other party, at that party's expense, may obtain a copy of the transcript. At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audio tape or video tape shall promptly (1) permit that other party to hear the audio tape or to view the video tape, and (2) furnish a copy of the audio tape or video tape to that other party on receipt of payment of the reasonable cost of making that copy of the tape.

If the testimony at the deposition is recorded both stenographically, and by audio tape or video tape, the stenographic

transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(q) (1) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the original transcript of the testimony is available for reading and signing, unless the deponent and all these parties agree on the record to waive the reading and signing of the transcript of the testimony. For 30 days following this notice the deponent, either in person or by a signed letter to the deposition officer, may change the form or the substance of the answer to any question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it. For good cause shown the court may shorten this time.

The deposition officer shall indicate on the original any action taken by the deponent, or the failure of the deponent to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly disapproves the accuracy of the transcript by refusing to sign it, the deposition shall be given the same effect as though signed. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the recording is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of an audio tape or video tape recording of the testimony. For 30 days following this notice the deponent, either in person or by signed letter to the deposition officer, may change the substance of the answer to any question.

The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as his or her own, or a statement of the deponent's failure to supply such signature, or to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly refuses by a signature to identify the deposition as his or her own, the deposition shall be given the same effect as though signed. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the

refusal to sign require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(r) The deposition officer shall certify on the transcript of the deposition, or in the writing accompanying an audio taped or video taped deposition as described in paragraph (2) of subdivision (q), that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given and of any changes made by the deponent.

(s) (1) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: "Deposition of (here insert name of deponent)", and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

(2) An audio tape or video tape record of deposition testimony, including a certified tape made by an operator qualified under subparagraph (B) of paragraph (2) of subdivision (*l*), shall not be filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss, destruction, or tampering, and preserve as far as practicable the quality of the tape and the integrity of the testimony and images it contains.

At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly (A) permit the one making the request to hear or to view the tape on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the tape, and (B) furnish a copy of the audio tape or the video tape recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the tape.

The attorney or operator who has custody of an audio tape or video tape record of deposition testimony shall retain custody of it until six months after final disposition of the action. At that time, the audio tape or video tape may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(t) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who received, notice of the deposition may take

a subsequent deposition of that deponent. However, for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken. This subdivision does not preclude taking one subsequent deposition of a natural person who has previously been examined as a result of that person's designation to testify on behalf of an organization under subdivision (d).

(u) At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(1) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party under this paragraph by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(3) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(A) The deponent resides more than 150 miles from the place of the trial or other hearing.

(B) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is (i) exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant, (ii) disqualified from testifying, (iii) dead or unable to attend or testify because of existing physical or mental illness or infirmity, (iv) absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process, or (v) absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(C) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(4) Any party may use a video tape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under

subdivision (d) reserved the right to use the deposition at trial, and if that party has complied with subparagraph (I) of paragraph (2) of subdivision (*l*).

(5) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(6) Substitution of parties does not affect the right to use depositions previously taken.

(7) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

SEC. 4. Section 2030 of the Code of Civil Procedure is amended to read:

2030. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by propounding to any other party to the action written interrogatories to be answered under oath.

(b) A defendant may propound interrogatories to a party to the action without leave of court at any time. A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.

(c) (1) A party may propound to another party (1) 35 specially prepared interrogatories, and (2) any additional number of official form interrogatories, as described in Section 2033.5, that are relevant to the subject matter of the pending action. Except as provided in paragraph (8), no party shall, as a matter of right, propound to any other party more than 35 specially prepared interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 specially prepared interrogatories served, if that party states an objection to the balance, under paragraph 3 of subdivision (f), on the ground that the limit has been exceeded.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may propound a greater number of specially prepared interrogatories to another party if this greater number is warranted because of any of the following:

(A) The complexity or the quantity of the existing and potential

issues in the particular case.

(B) The financial burden on a party entailed in conducting the discovery by oral deposition.

(C) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

If the responding party seeks a protective order on the ground that the number of specially prepared interrogatories is unwarranted, the propounding party shall have the burden of justifying the number of these interrogatories.

(3) Any party who is propounding or has propounded more than 35 specially prepared interrogatories to any other party shall attach to each set of those interrogatories a declaration containing substantially the following:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of interrogatories.

3. This set of interrogatories will cause the total number of specially prepared interrogatories propounded to the party to whom they are directed to exceed the number of specially prepared interrogatories permitted by paragraph (1) of subdivision (c) of Section 2030 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ interrogatories to this party, of which _____ interrogatories were not official form interrogatories.

5. This set of interrogatories contains a total of _____ specially prepared interrogatories.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in the case.

7. I have personally examined each of the questions in this set of interrogatories.

8. This number of questions is warranted under paragraph (2) of subdivision (c) of Section 2030 of the Code of Civil Procedure because _____. (Here state each factor described in paragraph (2) of subdivision (c) that is relied on, as well as the reasons why any factor relied on is applicable to the instant lawsuit.)

9. None of the questions in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was

executed on _____.

_____
(Signature)

Attorney for _____

(4) A party propounding interrogatories shall number each set of interrogatories consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the propounding party, the set number, and the identity of the responding party. Each interrogatory in a set shall be separately set forth and identified by number or letter.

(5) Each interrogatory shall be full and complete in and of itself. No preface or instruction shall be included with a set of interrogatories unless it has been approved under Section 2033.5. Any term specially defined in a set of interrogatories shall be typed with all letters capitalized wherever that term appears. No specially prepared interrogatory shall contain subparts, or a compound, conjunctive, or disjunctive question.

(6) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

(7) An interrogatory may not be made a continuing one so as to impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with later acquired information.

(8) In addition to the number of interrogatories permitted by paragraphs (1) and (2), a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories (1) twice prior to the initial setting of a trial date, and (2) subject to the time limits on discovery proceedings and motions provided in Section 2024, once after the initial setting of a trial date. However, on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental interrogatories.

(d) The party propounding interrogatories shall serve a copy of them (1) on the party to whom they are directed, and (2) on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

(e) When interrogatories have been propounded, the responding party, and any other party or affected natural person or organization may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented

by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of interrogatories, or particular interrogatories in the set, need not be answered.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of specially prepared interrogatories is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of interrogatories, or to particular interrogatories in the set, be extended.

(4) That the response be made only on specified terms and conditions.

(5) That the method of discovery be an oral deposition instead of interrogatories to a party.

(6) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a certain way.

(7) That some or all of the answers to interrogatories be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(f) The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by (1) an answer containing the information sought to be discovered, (2) an exercise of the party's option to produce writings, or (3) an objection to the particular interrogatory. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the propounding party. Each answer, exercise of option, or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered completely, it shall be answered to the extent possible. If the responding party does not have personal knowledge sufficient to

respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

(2) If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed, and if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this subdivision and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them.

(3) If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered. If an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation, or a partnership, association, or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any response that contains an objection.

(h) Within 30 days after service of interrogatories, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly

expensive or burdensome.

(i) The party propounding interrogatories and the responding party may agree to extend the time for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any interrogatory to which the agreement applies in any manner specified in subdivision (f).

(j) The interrogatories and the response thereto shall not be filed with the court. The propounding party shall retain both the original of the interrogatories, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

(k) If a party to whom interrogatories have been directed fails to serve a timely response, that party waives any right to exercise the option to produce writings under subdivision (f), as well as any objection to the interrogatories, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party propounding the interrogatories may move for an order compelling response to the interrogatories. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(*l*) If the propounding party, on receipt of a response to interrogatories, deems that (1) an answer to a particular interrogatory is evasive or incomplete, (2) an exercise of the option to produce documents under paragraph (2) of subdivision (f) is unwarranted or the required specification of those documents is inadequate, or (3) an objection to an interrogatory is without merit or too general, that party may move for an order compelling a further response. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service of the response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to interrogatories, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) Without leave of court, a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. At the trial of the action, the propounding party or any other party may use the initial answer under subdivision (n), and the responding party may then use the amended answer.

The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court shall grant this motion if it determines that (1) the initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory, (2) the responding party has failed to show substantial justification for the initial answer to that interrogatory, and (3) the prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer under subdivision (n).

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to deem binding an initial answer to an interrogatory, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(n) At the trial or any other hearing in the action, so far as admissible under the rules of evidence, the propounding party or any party other than the responding party may use any answer or part of an answer to an interrogatory only against the responding party. It is not ground for objection to the use of an answer to an interrogatory that the responding party is available to testify, has

testified, or will testify at the trial or other hearing.

SEC. 5. Section 2032 of the Code of Civil Procedure is amended to read:

2032. (a) Any party may obtain discovery, subject to the restrictions set forth in Section 2019, by means of a physical or mental examination of (1) a party to the action, (2) an agent of any party, or (3) a natural person in the custody or under the legal control of a party, in any action in which the mental or physical condition (including the blood group) of that party or other person is in controversy in the action.

(b) A physical examination conducted under this section shall be performed only by a licensed physician or other appropriate licensed health care practitioner. A mental examination conducted under this section shall be performed only by a licensed physician, or by a licensed clinical psychologist who holds a doctoral degree in psychology and has had at least five years of postgraduate experience in the diagnosis of emotional and mental disorders. Nothing in this section affects tests under the Uniform Act on Blood Tests to Determine Paternity (Chapter 2 (commencing with Section 890) of Division 7 of the Evidence Code).

(c) (1) As used in this subdivision, plaintiff includes a cross-complainant, and defendant includes a cross-defendant.

(2) In any case in which a plaintiff is seeking recovery for personal injuries, any defendant may demand one physical examination of the plaintiff, provided the examination does not include any diagnostic test or procedure that is painful, protracted, or intrusive, and is conducted at a location within 75 miles of the residence of the examinee. A defendant may make this demand without leave of court after that defendant has been served or has appeared in the action, whichever occurs first. This demand shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the physician who will perform the examination.

(3) A physical examination demanded under this subdivision shall be scheduled for a date that is at least 30 days after service of the demand for it unless on motion of the party demanding the examination the court has shortened this time.

(4) The defendant shall serve a copy of the demand for this physical examination on the plaintiff and on all other parties who have appeared in the action.

(5) The plaintiff to whom this demand for a physical examination has been directed shall respond to the demand by a written statement that the examinee will comply with the demand as stated, will comply with the demand as specifically modified by the plaintiff, or will refuse, for reasons specified in the response, to submit to the demanded physical examination. Within 20 days after service of the demand the plaintiff to whom the demand is directed shall serve the original of the response to it on the defendant making the demand, and a copy of the response on all other parties who have appeared

in the action, unless on motion of the defendant making the demand the court has shortened the time for response, or unless on motion of the plaintiff to whom the demand has been directed, the court has extended the time for response.

(6) If a plaintiff to whom this demand for a physical examination has been directed fails to serve a timely response to it, that plaintiff waives any objection to the demand. However, the court, on motion, may relieve that plaintiff from this waiver on its determination that (A) the plaintiff has subsequently served a response that is in substantial compliance with paragraph (5), and (B) the plaintiff's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The defendant may move for an order compelling response and compliance with a demand for a physical examination. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel response and compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a plaintiff then fails to obey the order compelling response and compliance, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction the court may impose a monetary sanction under Section 2023.

(7) If a defendant who has demanded a physical examination under this subdivision, on receipt of the plaintiff's response to that demand, deems that any modification of the demand, or any refusal to submit to the physical examination is unwarranted, that defendant may move for an order compelling compliance with the demand. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with a demand for a physical examination, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(8) The demand for a physical examination and the response to it shall not be filed with the court. The defendant shall retain both the original of the demand, with the original proof of service affixed to it, and the original response until six months after final disposition of the action. At that time, the original may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(d) If any party desires to obtain discovery by a physical examination other than that described in subdivision (c), or by a

mental examination, the party shall obtain leave of court. The motion for the examination shall specify the time, place, manner, conditions, scope, and nature of the examination, as well as the identity and the specialty, if any, of the person or persons who will perform the examination. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt to arrange for the examination by an agreement under subdivision (e). Notice of the motion shall be served on the person to be examined and on all parties who have appeared in the action.

The court shall grant a motion for a physical or mental examination only for good cause shown. If a party stipulates that (1) no claim is being made for mental and emotional distress over and above that usually associated with the physical injuries claimed, and (2) no expert testimony regarding this usual mental and emotional distress will be presented at trial in support of the claim for damages, a mental examination of a person for whose personal injuries a recovery is being sought shall not be ordered except on a showing of exceptional circumstances. The order granting a physical or mental examination shall specify the person or persons who may perform the examination, and the time, place, manner, diagnostic tests and procedures, conditions, scope, and nature of the examination. If the place of the examination is more than 75 miles from the residence of the person to be examined, the order to submit to it shall be (1) made only on the court's determination that there is good cause for the travel involved, and (2) conditioned on the advancement by the moving party of the reasonable expenses and costs to the examinee for travel to the place of examination.

(e) In lieu of the procedures and restrictions specified in subdivisions (c) and (d), any physical or mental examination may be arranged by, and carried out under, a written agreement of the parties.

(f) If a party required by subdivision (c), (d), or (e) to submit to a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may, on motion of the party, impose a monetary sanction under Section 2023.

If a party required by subdivision (c), (d), or (e) to produce another for a physical or mental examination fails to do so, the court, on motion of the party entitled to the examination, may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023, unless the party failing to comply demonstrates an inability to produce that person for examination. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(g) (1) The attorney for the examinee or for a party producing the examinee, or that attorney's representative, shall be permitted

to attend and observe any physical examination conducted for discovery purposes, and to record stenographically or by audio tape any words spoken to or by the examinee during any phase of the examination. This observer may monitor the examination, but shall not participate in or disrupt it.

If in the judgment of the observer the examiner becomes abusive to the examinee or undertakes to engage in unauthorized diagnostic tests and procedures, the observer may suspend it to enable the party being examined or producing the examinee to make a motion for a protective order. If the observer begins to participate in or disrupt the examination, the person conducting the physical examination may suspend the examination to enable the party at whose instance it is being conducted to move for a protective order.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If the examinee submits or authorizes access to X-rays of any area of his or her body for inspection by the examining physician, no additional X-rays of that area may be taken by the examining physician except with consent of the examinee or on order of the court for good cause shown.

(2) The examiner and examinee shall have the right to record a mental examination on audio tape. However, nothing in this article shall be construed to alter, amend, or affect existing case law with respect to the presence of the attorney for the examinee or other persons during the examination by agreement or court order.

(h) If a party submits to, or produces another for, a physical or mental examination in compliance with a demand under subdivision (c), an order of court under subdivision (d), or an agreement under subdivision (e), that party has the option of making a written demand that the party at whose instance the examination was made deliver to the demanding party (1) a copy of a detailed written report setting out the history, examinations, findings, including the results of all tests made, diagnoses, prognoses, and conclusions of the examiner, and (2) a copy of reports of all earlier examinations of the same condition of the examinee made by that or any other examiner. If this option is exercised, a copy of these reports shall be delivered within 30 days after service of the demand, or within 15 days of trial, whichever is earlier. The protection for work product under Section 2018 is waived, both for the examiner's writings and reports and to the taking of the examiner's testimony.

If the party at whose instance the examination was made fails to make a timely delivery of the reports demanded, the demanding party may move for an order compelling their delivery. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling delivery of demanded medical reports, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to those sanctions, the court may impose a monetary sanction under Section 2023. The court shall exclude at trial the testimony of any examiner whose report has not been provided by a party.

(i) By demanding and obtaining a report of a physical or mental examination under the provisions of subdivision (h), or by taking the deposition of the examiner, other than under subdivision (i) of Section 2034, the party who submitted to, or produced another for, a physical or mental examination waives in the pending action, and in any other action involving the same controversy, any privilege, as well as any protection for work product under Section 2018, that the party or other examinee may have regarding reports and writings as well as the testimony of every other physician, psychologist, or licensed health care practitioner who has examined or may thereafter examine the party or other examinee in respect of the same physical or mental condition.

(j) A party receiving a demand for a report under subdivision (h) is entitled at the time of compliance to receive in exchange a copy of any existing written report of any examination of the same condition by any other physician, psychologist, or licensed health care practitioner. In addition, that party is entitled to receive promptly any later report of any previous or subsequent examination of the same condition, by any physician, psychologist, or licensed health care practitioner.

If a party who has demanded and received delivery of medical reports under subdivision (h) fails to deliver existing or later reports of previous or subsequent examinations, a party who has complied with subdivision (h) may move for an order compelling delivery of medical reports. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel delivery of medical reports, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling delivery of medical reports, the court may make those orders that are just,

including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to the sanction, the court may impose a monetary sanction under Section 2023. The court shall exclude at trial the testimony of any health care practitioner whose report has not been provided by a party ordered to do so by the court.

(k) Nothing in this section shall require the disclosure of the identity of an expert consulted by an attorney in order to make the certification required in an action for professional negligence under Sections 411.30 and 411.35.

SEC. 6. Section 2033 of the Code of Civil Procedure is amended to read:

2033. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by a written request that any other party to the action admit the genuineness of specified documents, or the truth of specified matters of fact, opinion relating to fact, or application of law to fact. A request for admission may relate to a matter that is in controversy between the parties.

(b) A defendant may make requests for admission by a party without leave of court at any time. A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.

(c) (1) No party shall request, as a matter of right, that any other party admit more than 35 matters that do not relate to the genuineness of documents. If the initial set of admission requests does not exhaust this limit, the balance may be requested in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 admission requests served that do not relate to the genuineness of documents, if that party states an objection to the balance under paragraph (2) of subdivision (f) on the ground that the limit has been exceeded.

The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may request a greater number of admissions by another party if the greater number is warranted by the complexity or the quantity of the existing and potential issues in the particular case.

If the responding party seeks a protective order on the ground that the number of requests for admission is unwarranted, the propounding party shall have the burden of justifying the number of requests for admission.

(3) Any party who is requesting or who has already requested more than 35 admissions not relating to the genuineness of documents by any other party shall attach to each set of requests for admissions a declaration containing substantially the following words:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of requests for admission.

3. This set of requests for admission will cause the total number of requests propounded to the party to whom they are directed to exceed the number of requests permitted by paragraph (1) of subdivision (c) of Section 2033 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ requests for admission to this party.

5. This set of requests for admission contains a total of _____ requests.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in this case.

7. I have personally examined each of the requests in this set of requests for admission.

8. This number of requests for admission is warranted under paragraph (2) of subdivision (c) of Section 2033 of the Code of Civil Procedure because _____. (Here state the reasons why the complexity or the quantity of issues in the instant lawsuit warrant this number of requests for admission.)

9. None of the requests in this set of requests is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

_____
(Signature)

Attorney for _____

(4) A party requesting admissions shall number each set of requests consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the requesting party, the set number, and the identity of the responding party. Each request for admission in a set shall be separately set forth and identified by letter or number.

(5) Each request for admission shall be full and complete in and

of itself. No preface or instruction shall be included with a set of admission requests unless it has been approved under Section 2033.5. Any term specially defined in a request for admission shall be typed with all letters capitalized whenever the term appears. No request for admission shall contain subparts, or a compound, conjunctive, or disjunctive request unless it has been approved under Section 2033.5.

(6) A party requesting an admission of the genuineness of any documents shall attach copies of those documents to the requests, and shall make the original of those documents available for inspection on demand by the party to whom the requests for admission are directed.

(7) No party shall combine in a single document requests for admission with any other method of discovery.

(d) The party requesting admissions shall serve a copy of them on the party to whom they are directed and on all other parties who have appeared in the action.

(e) When requests for admission have been made, the responding party may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of admission requests, or particular requests in the set, need not be answered at all.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of admission requests is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of admission requests, or to particular requests in the set, be extended.

(4) That a trade secret or other confidential research, development, or commercial information not be admitted or be admitted only in a certain way.

(5) That some or all of the answers to requests for admission be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the responding party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) The party to whom requests for admission have been directed

shall respond in writing under oath separately to each request. Each response shall answer the substance of the requested admission, or set forth an objection to the particular request. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the requesting party. Each answer or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. Each answer shall (A) admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the responding party, (B) deny so much of the matter involved in the request as is untrue, and (C) specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge. If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.

(2) If only a part of a request for admission is objectionable, the remainder of the request shall be answered. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the requests for admission are directed shall sign the response under oath, unless the response contains only objections. If that party is a public or private corporation, or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any response that contains an objection.

(h) Within 30 days after service of requests for admission, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended

the time for response.

(i) The party requesting admissions and the responding party may agree to extend the time for service of a response to a set of admission requests, or to particular requests in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any request for admission to which the agreement applies in any manner specified in subdivision (f). Notice of this agreement shall be given by the responding party to all other parties who were served with a copy of the request.

(j) The requests for admission and the response to them shall not be filed with the court. The party requesting admissions shall retain both the original of the requests for admission, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(k) If a party to whom requests for admission have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Section 2023. The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with paragraph (1) of subdivision (f). It is mandatory that the court impose a monetary sanction under Section 2023 on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

(*l*) If the party requesting admissions, on receipt of a response to the requests, deems that (1) an answer to a particular request is evasive or incomplete, or (2) an objection to a particular request is without merit or too general, that party may move for an order compelling a further response. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service

of the response, or any specific later date to which the requesting party and the responding party have agreed in writing, the requesting party waives any right to compel further response to the requests for admission.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to requests for admission, the court may order that the matters involved in the requests be deemed admitted. In lieu of or in addition to this order, the court may impose a monetary sanction under Section 2023.

(m) A party may withdraw or amend an admission made in response to a request for admission only on leave of court granted after notice to all parties. The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits. The court may impose conditions on the granting of the motion that are just, including, but not limited to, an order that (1) the party who obtained the admission be permitted to pursue additional discovery related to the matter involved in the withdrawn or amended admission, and (2) the costs of any additional discovery be borne in whole or in part by the party withdrawing or amending the admission.

(n) Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under subdivision (m). However, any admission made by a party under this section is (1) binding only on that party, and (2) made for the purpose of the pending action only. It is not an admission by that party for any other purpose, and it shall not be used in any manner against that party in any other proceeding.

(o) If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this section, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make this order unless it finds that (1) an objection to the request was sustained or a response to it was waived under subdivision (*l*), (2) the admission sought was of no substantial importance, (3) the party failing to make the admission had reasonable ground to believe that that party would prevail on

the matter, or (4) there was other good reason for the failure to admit.

SEC. 7. Section 2034 of the Code of Civil Procedure is amended to read:

2034. (a) After the setting of the initial trial date for the action, any party may obtain discovery by demanding that all parties simultaneously exchange information concerning each other's expert trial witnesses to the following extent:

(1) Any party may demand a mutual and simultaneous exchange by all parties of a list containing the name and address of any natural person, including one who is a party, whose oral or deposition testimony in the form of an expert opinion any party expects to offer in evidence at the trial.

(2) If any expert designated by a party under paragraph (1) is a party or an employee of a party, or has been retained by a party for the purpose of forming and expressing an opinion in anticipation of the litigation or in preparation for the trial of the action, the designation of that witness shall include or be accompanied by an expert witness declaration under paragraph (2) of subdivision (f).

(3) Any party may also include a demand for the mutual and simultaneous production for inspection and copying of all discoverable reports and writings, if any, made by any expert described in paragraph (2) in the course of preparing that expert's opinion.

This section does not apply to exchanges of lists of experts and valuation data in eminent domain proceedings under Chapter 7 (commencing with Section 1258.010) of Title 7 of Part 3.

(b) Any party may make a demand for an exchange of information concerning expert trial witnesses without leave of court. A party shall make this demand no later than the 10th day after the initial trial date has been set, or 70 days before that trial date, whichever is closer to the trial date.

(c) A demand for an exchange of information concerning expert trial witnesses shall be in writing and shall identify, below the title of the case, the party making the demand. The demand shall state that it is being made under this section.

The demand shall specify the date for the exchange of lists of expert trial witnesses, expert witness declarations, and any demanded production of writings. The specified date of exchange shall be 50 days before the initial trial date, or 20 days after service of the demand, whichever is closer to the trial date, unless the court, on motion and a showing of good cause, orders an earlier or later date of exchange.

(d) The party demanding an exchange of information concerning expert trial witnesses shall serve the demand on all parties who have appeared in the action.

(e) A party who has been served with a demand to exchange information concerning expert trial witnesses may promptly move for a protective order. This motion shall be accompanied by a

declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. The protective order may include, but is not limited to, one or more of the following directions:

(1) That the demand be quashed because it was not timely served.

(2) That the date of exchange be earlier or later than that specified in the demand.

(3) That the exchange be made only on specified terms and conditions.

(4) That the production and exchange of any reports and writings of experts be made at a different place or at a different time than that specified in the demand.

(5) That some or all of the parties be divided into sides on the basis of their identity of interest in the issues in the action, and that the designation of any experts as described in paragraph (2) of subdivision (a) be made by any side so created.

(6) That a party or a side reduce the list of employed or retained experts designated by that party or side under paragraph (2) of subdivision (a).

If the motion for a protective order is denied in whole or in part, the court may order that the parties against whom the motion is brought, provide or permit the discovery against which the protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) All parties who have appeared in the action shall exchange information concerning expert witnesses in writing on or before the date of exchange specified in the demand. The exchange of information may occur at a meeting of the attorneys for the parties involved or by a mailing on or before the date of exchange.

(1) The exchange of expert witness information shall include either of the following:

(A) A list setting forth the name and address of any person whose expert opinion that party expects to offer in evidence at the trial.

(B) A statement that the party does not presently intend to offer the testimony of any expert witness.

(2) If any witness on the list is an expert as described in paragraph (2) of subdivision (a), the exchange shall also include or be accompanied by an expert witness declaration signed only by the attorney for the party designating the expert, or by that party if that party has no attorney. This declaration shall be under penalty of perjury and shall contain:

(A) A brief narrative statement of the qualifications of each

expert.

(B) A brief narrative statement of the general substance of the testimony that the expert is expected to give.

(C) A representation that the expert has agreed to testify at the trial.

(D) A representation that the expert will be sufficiently familiar with the pending action to submit to a meaningful oral deposition concerning the specific testimony, including any opinion and its basis, that the expert is expected to give at trial.

(E) A statement of the expert's hourly and daily fee for providing deposition testimony.

(g) If a demand for an exchange of information concerning expert trial witnesses includes a demand for production of reports and writings as described in paragraph (3) of subdivision (a), all parties shall produce and exchange, at the place and on the date specified in the demand, all discoverable reports and writings, if any, made by any designated expert described in paragraph (2) of subdivision (a).

(h) Within 20 days after the exchange described in subdivision (f), any party who engaged in the exchange may submit a supplemental expert witness list containing the name and address of any experts who will express an opinion on a subject to be covered by an expert designated by an adverse party to the exchange, if the party supplementing an expert witness list has not previously retained an expert to testify on that subject. This supplemental list shall be accompanied by an expert witness declaration under paragraph (2) of subdivision (f) concerning those additional experts, and by all discoverable reports and writings, if any, made by those additional experts. The party shall also make those experts available immediately for a deposition under subdivision (i), which deposition may be taken even though the time limit for discovery under Section 2024 has expired.

(i) On receipt of an expert witness list from a party, any other party may take the deposition of any person on the list. The procedures for taking oral and written depositions set forth in Sections 2025, 2026, 2027, and 2028 apply to a deposition of a listed trial expert witness except as follows:

(1) The deposition of any expert described in paragraph (2) of subdivision (a) shall be taken at a place that is within 75 miles of the courthouse where the action is pending. However, on motion for a protective order by the party designating an expert witness, and on a showing of exceptional hardship, the court may order that the deposition be taken at a more distant place from the courthouse.

(2) A party desiring (A) to depose any expert described in paragraph (2) of subdivision (a) except one who is a party or an employee of a party, or (B) to depose any treating physician or other treating health care practitioner who is to be asked to express an opinion during the deposition, shall pay the reasonable and customary hourly or daily fee for the actual time consumed in the examination of that expert by any party attending the deposition. In

a worker's compensation case arising under Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code, a party desiring to depose any expert on another party's expert witness list shall pay this fee.

The party taking the deposition shall either accompany the service of the deposition notice with a tender of the expert's fee based on the anticipated length of the deposition or tender that fee at the commencement of the deposition. The expert's fee shall be delivered to the attorney for the party designating the expert. If the deposition of the expert takes longer than anticipated, the party giving notice of the deposition shall pay the balance of the expert's fee within five days of receipt of an itemized statement from the expert. The party designating the expert is responsible for any fee charged by the expert for preparing for the deposition and for traveling to the place of the deposition, as well as for any travel expenses of the expert.

(3) The service of a proper deposition notice accompanied by the tender of the expert witness fee described in paragraph (2) is effective to require the party employing or retaining the expert to produce the expert for the deposition. If the party noticing the deposition fails to tender the expert's fee under paragraph (2), the expert shall not be deposed at that time unless the parties stipulate otherwise.

(4) If a party desiring to take the deposition of an expert witness under this subdivision deems that the hourly or daily fee of that expert for providing deposition testimony is unreasonable, that party may move for an order setting the compensation of that expert. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall also be given to the expert.

The court shall set the fee of the expert for providing deposition testimony if it determines that the fee demanded by that expert is unreasonable.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to set the expert witness fee, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) Except as provided in subdivisions (k), (*l*), and (m), on objection of any party who has made a complete and timely compliance with subdivision (f), the trial court shall exclude from evidence the expert opinion of any witness that is offered by any party who has unreasonably failed to do any of the following:

(1) List that witness as an expert under subdivision (f).

(2) Submit an expert witness declaration.

(3) Produce reports and writings of expert witnesses under subdivision (g).

(4) Make that expert available for a deposition under subdivision (i).

(k) On motion of any party who has engaged in a timely exchange of expert witness information, the court may grant leave to (1) augment that party's expert witness list and declaration by adding the name and address of any expert witness whom that party has subsequently retained, or (2) amend that party's expert witness declaration with respect to the general substance of the testimony that an expert previously designated is expected to give. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The demand, and all expert witness lists and declarations exchanged in response to it, shall be lodged with the court when their contents become relevant to an issue in any pending matter in the action. The court shall grant leave to augment or amend an expert witness list or declaration only after taking into account the extent to which the opposing party has relied on the list of expert witnesses, and after determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party either (1) would not in the exercise of reasonable diligence have determined to call that expert witness or have decided to offer the different or additional testimony of that expert witness, or (2) failed to determine to call that expert witness, or to offer the different or additional testimony of that expert witness as a result of mistake, inadvertence, surprise, or excusable neglect, provided that the moving party (1) has sought leave to augment or amend promptly after deciding to call the expert witness or to offer the different or additional testimony, and (2) has promptly thereafter served a copy of the proposed expert witness information concerning the expert or the testimony described in subdivision (f) on all other parties who have appeared in the action. Leave shall be conditioned on the moving party making the expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to augment or amend expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(*l*) On motion of any party who has failed to submit expert

witness information on the date specified in a demand for that exchange, the court may grant leave to submit that information on a later date. This motion shall be made a sufficient time in advance of the time limit for the completion of discovery under Section 2024 to permit the deposition of any expert to whom the motion relates to be taken within that time limit. However, under exceptional circumstances, the court may permit the motion to be made at a later time. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court shall grant leave to submit tardy expert witness information only after taking into account the extent to which the opposing party has relied on the absence of a list of expert witnesses, and determining that any party opposing the motion will not be prejudiced in maintaining that party's action or defense on the merits, and that the moving party (1) failed to submit that information as the result of mistake, inadvertence, surprise, or excusable neglect, (2) sought that leave promptly after learning of the mistake, inadvertence, surprise, or excusable neglect, and (3) has promptly thereafter served a copy of the proposed expert witness information described in subdivision (f) on all other parties who have appeared in the action. This order shall be conditioned on the moving party making that expert available immediately for a deposition under subdivision (i), and on such other terms as may be just, including, but not limited to, leave to any party opposing the motion to designate additional expert witnesses or to elicit additional opinions from those previously designated, a continuance of the trial for a reasonable period of time, and the awarding of costs and litigation expenses to any party opposing the motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to submit tardy expert witness information, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(m) A party may call as a witness at trial an expert not previously designated by that party if: (1) that expert has been designated by another party and has thereafter been deposed under subdivision (i), or (2) that expert is called as a witness to impeach the testimony of an expert witness offered by any other party at the trial. This impeachment may include testimony to the falsity or nonexistence of any fact used as the foundation for any opinion by any other party's expert witness, but may not include testimony that contradicts the opinion.

(n) The demand for an exchange of information concerning expert trial witnesses, and any expert witness lists and declarations exchanged shall not be filed with the court. The party demanding the exchange shall retain both the original of the demand, with the original proof of service affixed, and the original of all expert witness

lists and declarations exchanged in response to the demand until six months after final disposition of the action. At that time, all originals may be destroyed unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

CHAPTER 554

An act to add Sections 2424 and 2424.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. (a) To clarify the authority of the Department of the California Highway Patrol under existing law, the Legislature makes the findings and declarations set forth in this subdivision. There are many occasions during their routine operations when members of the California Highway Patrol are required to provide for the removal of wrecked or disabled vehicles from the highways of this state, or to provide for the removal and safe storage of vehicles belonging to persons who are arrested and incarcerated. The department utilizes, of necessity, the services of many private towing companies in the discharge of these public duties and the Legislature recognizes that many motoring citizens are thus placed in the position, without their express consent, of employing the services of these towing and wrecker companies. The Legislature deems it incumbent upon the department to strive to maintain a fair degree of equality and protection of the motoring citizens from unethical or unfair business practices on the part of private towing companies whom the department utilizes on behalf of these citizens.

(b) The Legislature also recognizes that a tow company's participation is voluntary, that any agreement entered into shall not affect the towing company on nondepartment referred calls, and that nonparticipation shall not affect a tow company's right to operate a tow service.

SEC. 2. Section 2424 is added to the Vehicle Code, to read:

2424. (a) The Commissioner of the California Highway Patrol may enter into agreements with providers of towing and storage services for the purpose of determining which providers shall be summoned by the department when those services are necessary for public assistance or to carry out the duties and responsibilities of the department. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the agreements. The department shall confer with the towing industry, as necessary, to reach agreements mutually beneficial to

the public, the towing industry, and the department.

(b) This section does not prohibit a member of the public from selecting any vehicle towing or storage provider, except when towing or storage is ordered by a member of the department under the provisions of law.

(c) These agreements shall be implemented in cooperation with representatives of the towing industry, and shall include, but not be limited to, the following subjects: liability insurance requirements, towing and storage fees, inspection of business and storage facilities and equipment, recordkeeping, minimum equipment requirements, and the establishment of tow districts.

(d) Failure of a towing or storage provider to comply with the provisions of the agreement may result in the suspension or termination of the agreement. In the event of suspension or termination of the agreement, and at the request of the towing and storage provider, the department shall provide a hearing and appeal process to the provider.

SEC. 3. Section 2424.5 is added to the Vehicle Code, to read:

2424.5. The commissioner shall, not later than March 15 of each year, report to the Legislature on the agreements entered into pursuant to Section 2424. The report shall include, but not be limited to, the following:

(a) The total number of agreements the department is currently entered into.

(b) The signatories to the agreements.

(c) The departmental policy for establishing conditions or criteria for selecting providers of towing and storage services to participate in those agreements.

CHAPTER 555

An act to add Section 17156 to the Revenue and Taxation Code, to add Section 11008.17 to the Welfare and Institutions Code, and to amend Sections 2 and 3 of, and to repeal Section 6 of, Chapter 523 of the Statutes of 1982, relating to reparations for World War II injustices.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 17156 is added to the Revenue and Taxation Code, to read:

17156. Gross income does not include any amount received pursuant to any federal law enacted in 1988 to provide reparation payments to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World

War II.

This section shall not become operative, unless and until the board determines that a federal statute is enacted in 1988 which provides that amounts payable under a federal program to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World War II shall be treated, for purposes of the internal revenue laws of the United States, as damages for human suffering.

SEC. 2. Section 11008.17 is added to the Welfare and Institutions Code, to read:

11008.17. To the extent required by federal law, amounts paid pursuant to any federal law enacted in 1988 to provide reparation payments to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World War II shall not be considered as income or resources for purposes of determining eligibility to receive Medi-Cal benefits or public assistance benefits or the amount of those benefits.

This section shall not become operative, unless and until the department determines that a federal statute is enacted in 1988 which provides that amounts payable under a federal program to redress the injustice done to United States citizens and resident aliens of Japanese ancestry who were interned during World War II shall not be treated as income or resources for purposes of determining eligibility to receive benefits defined by subdivision (c) (2) (C) of Section 3803 of Title 31 of the United States Code or the amount of those benefits.

SEC. 3. Section 2 of Chapter 523 of the Statutes of 1982 is amended to read:

Sec. 2. Any person who, due to the enactment of SCR 15, was dismissed, terminated from a temporary position, rejected during his or her probationary period, or voluntarily resigned in lieu of dismissal from state civil service, the California State University, or the University of California and who incurred salary losses as a result thereof, is eligible to file a claim with the state for the reparation of those losses. The surviving spouse of the person is also eligible to file a claim with the state for the reparation of those losses if the person did not file a claim pursuant to this act before his or her death. No more than one claim may be filed with respect to the person. Claims must be postmarked by May 15 of each year.

SEC. 4. Section 3 of Chapter 523 of the Statutes of 1982 is amended to read:

Sec. 3. The claim may be submitted for the reparation of the salary losses suffered during the years 1942 to 1947. The claim shall be supported by appropriate verification, such as the person's name at the time of the dismissal, the name of the employing department, a social security number, or by evidence of official action, such as a letter of termination. In the case of a claim submitted by the surviving spouse of a deceased person who suffered a loss, the claim shall be supported also by verification of the claimant's relationship

to the deceased person.

SEC. 5. Section 6 of Chapter 523 of the Statutes of 1982 is repealed.

CHAPTER 556

An act to amend Sections 4754, 4758, and 4804 of the Fish and Game Code, relating to game.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 4754 of the Fish and Game Code is amended to read:

4754. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to bears shall forfeit his or her bear license tags, and new bear license tags shall not be issued to that person during the then current license year for hunting licenses.

(b) A person described in subdivision (a) shall not apply for bear license tags for the following license year.

SEC. 2. Section 4758 of the Fish and Game Code is amended to read:

4758. (a) Subject to the provisions of this code permitting the sale of domestically raised game mammals, it is unlawful to sell or purchase, or possess for sale, the meat, skin, hide, teeth, claws, or other parts of any bear in this state.

(b) The possession of more than one bear gall bladder is prima facie evidence that the bear gall bladders are possessed for sale.

(c) Nothing in this section prohibits a sale authorized pursuant to Section 3087.

SEC. 3. Section 4804 of the Fish and Game Code is amended to read:

4804. (a) Any person who is convicted of a violation of any provision of this code, or of any rule, regulation, or order made or adopted under this code, relating to mountain lions shall forfeit his or her mountain lion license tags, and new mountain lion license tags shall not be issued to that person during the then current license year for hunting licenses.

(b) A person described in subdivision (a) shall not apply for mountain lion license tags for the following license year.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 557

An act to amend Section 221.5 of the Civil Code, and to amend Section 1502 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Section 221.5 of the Civil Code is amended to read:

221.5. (a) "Full service adoption agency," for the purposes of this chapter, means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(1) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(2) Assesses the birth parents, prospective adoptive parents, or child.

(3) Places children for adoption.

(4) Supervises adoptive placements.

(b) "Noncustodial adoption agency," for the purposes of this chapter, means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(1) Assesses the prospective adoptive parents.

(2) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(3) Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

(c) Private adoption agencies shall be organized and operated on a nonprofit basis.

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

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour

nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. Such placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

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

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoption agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

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

CHAPTER 558

An act to add Article 3 (commencing with Section 25545) to Chapter 6.95 of Division 20 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor August 23, 1988. Filed with Secretary of State August 24, 1988.]

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

SECTION 1. Article 3 (commencing with Section 25545) is added to Chapter 6.95 of Division 20 of the Health and Safety Code, to read:

Article 3. Emergency Planning and Community Right to Know Act of 1986 Implementation

25545. The Office of Emergency Services shall develop informational guidelines for facilities required to comply with Chapter 116 (commencing with Section 11001) of Title 42 of the

United States Code and with this chapter, and shall assist the administering agencies in assuring full distribution of these guidelines to those facilities.

CHAPTER 559

An act to add Chapter 10.5 (commencing with Section 1870) to Part 2 of Division 1 of the Insurance Code, relating to risk retention.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Chapter 10.5 (commencing with Section 1870) is added to Part 2 of Division 1 of the Insurance Code, to read:

CHAPTER 10.5. RISK RETENTION

1870. The Legislature finds and declares that for the purpose of creating a risk retention group, directors and officers of corporations, whether for profit or nonprofit, are engaged in the same line of business with respect to the liability risks faced by those officers and directors within the meaning of the federal Liability Risk Retention Act of 1986.

CHAPTER 560

An act to amend Sections 64, 65, 75.21, 75.60, 231, 251, 254, 255, and 606 of, and to add Section 259.12 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 64 of the Revenue and Taxation Code is amended to read:

64. (a) Except as provided in subdivision (h) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal

Revenue Code and which is accepted as a nontaxable event by similar California statutes, or any transfer of real property among members of an affiliated group, or any reorganization of farm credit institutions pursuant to the federal Farm Credit Act of 1971 (Public Law 92-181), as amended, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation, or obtains a majority ownership interest in any partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interests in other legal entities, such purchase or transfer of such stock or other interest shall be a change of ownership of property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(d) If property is transferred on or after March 1, 1975, to a legal entity in a transaction excluded from change in ownership by paragraph (2) of subdivision (a) of Section 62, then the persons holding ownership interests in such legal entity immediately after the transfer shall be considered the "original coowners." Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of that real property owned by the legal entity shall have occurred, and the property which was previously excluded from change in ownership under the provisions of paragraph (2) of subdivision (a) of Section 62 shall be reappraised.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

A transfer of shares or other ownership interests which results in a change in control of a corporation, partnership, or any other legal entity is subject to reappraisal as provided in subdivision (c) rather than this subdivision.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivisions (c) and (d), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks and corporations

(except tax-exempt organizations):

If the corporation (or partnership) owns real property in California, has cumulatively more than 50 percent of the voting stock (or more than 50 percent of total interest in both partnership capital and partnership profits) (1) been transferred by the corporation (or partnership) since March 1, 1975, or (2) been acquired by another legal entity or person during the year? (See instructions.)

If the entity answers "yes" to (1) or (2) in the above question, then the Franchise Tax Board shall furnish the names and addresses of that entity and of the stock or partnership ownership interest transferees to the State Board of Equalization.

SEC. 2. Section 65 of the Revenue and Taxation Code is amended to read:

65. (a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.

(b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the "original transferor or transferors" for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

(e) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an "original transferor." This presumption is not applicable to joint tenancies created after March 1, 1975.

SEC. 3. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), that the assessee is eligible for the exemption, and that in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for an exemption and in those instances in which the provisions of this division require the filing of claims for exemption, the assessee makes a claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) In those instances in which the provisions of this division require the filing of claims for exemption, except as provided in subdivision (d), any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file a claim or an amendment to a current claim, in such form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment, in order to receive 100 percent exemption.

(1) With respect to property as to which the college, cemetery, church, religious, exhibition, veterans' organization, free public libraries, free museums, public schools, community colleges, state colleges, state universities, or welfare exemption was available but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon or any amount of tax or penalty or interest thereon exceeding two hundred fifty dollars ($250) in total amount, whichever is greater, for each supplemental assessment, shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(2) With respect to property as to which the veterans', homeowners', or disabled veterans' exemption was available but for which a timely application for exemption was not filed, that portion of tax attributable to 80 percent of the amount of exemption available shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

(3) With respect to property as to which any other exemption was available, but for which a timely application for exemption was not filed, 90 percent of any tax or penalty or interest thereon shall be canceled or refunded, provided that an appropriate application for exemption is filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by Section 75.52.

Where a late application for exemption has not been filed on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, no exemption is available. Other provisions of this division pertaining to the late filing of claims for exemption do not apply to assessments made pursuant to this chapter.

(d) For purposes of this section, any claim for the homeowners' exemption previously filed by the owner of a dwelling, granted and in effect, constitutes the claim or claims for the homeowners' exemption required herein. In the event that no claim for the homeowners' exemption is in effect, a claim for the homeowners' exemption for a single supplemental assessment for a change in ownership or new construction occurring on or after June 1 up to and including February 29 shall apply to that assessment; a claim for the homeowners' exemption for the two supplemental assessments for a change in ownership or new construction occurring on or after March 1 up to and including May 31, one for the current fiscal year and one for the following fiscal year, shall apply to those assessments; and in either case, if granted, the claim shall remain in effect until the time title to the property changes, the owner does not occupy the home as his or her principal place of residence on the lien date, or the property is otherwise ineligible pursuant to Section 218.

SEC. 4. Section 75.60 of the Revenue and Taxation Code is amended to read:

75.60. (a) Notwithstanding any other provision of law, the board of supervisors of an eligible county, upon the adoption of a method identifying the actual administrative costs associated with the supplemental assessment roll, may direct the county auditor to allocate to the county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) and prior to the allocation made pursuant to Section 75.70, an amount equal to the actual administrative costs, but not to exceed 5 percent of the revenues which have been collected on or after January 1, 1987, due to the assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter, regardless of the date those costs are incurred.

(b) For purposes of this section:

(1) "Actual administrative costs" includes only those direct costs for administration, data processing, collection, and appeal which are incurred by county auditors, assessors, and tax collectors. "Actual administrative costs" also includes those indirect costs for administration, data processing, collections, and appeal which are incurred by county auditors, assessors, and tax collectors and are allowed by state and federal audit standards pursuant to the A-87 Cost Allocation Program.

(2) "Eligible county" means a county which has been certified by the State Board of Equalization as an eligible county. The State Board of Equalization shall certify a county as an eligible county only if the average level of assessment in the county is at least 90 percent of the

assessment level required by statute, as determined by the board in the survey made pursuant to Section 15640 of the Government Code and commenced prior to January 1, 1987, or is at least 95 percent of the assessment level required by statute, as determined by the board in the survey made pursuant to Section 15640 of the Government Code and commenced after January 1, 1987. Each certification of a county shall be valid only until the next survey made by the board. If a county is not certified by the board, it may request a new survey in advance of the regularly scheduled survey, provided that it agrees to pay for the cost of that survey.

SEC. 5. Section 231 of the Revenue and Taxation Code is amended to read:

231. (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of "charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution if:

(1) All of the provisions of Section 214 are complied with, except paragraph (6) of subdivision (a). For purposes of paragraph (6) of subdivision (a) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

(2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.

(3) All of the provisions of Section 214.01 are complied with by March 15, 1970.

(b) As used in this section "property" means:

(1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:

(A) City halls.

(B) Courthouses.

(C) Administration buildings.

(D) Police stations, jails, or detention facilities.

(E) Fire stations.

(F) Parks or playgrounds.

(G) Hospitals.

(H) Water systems and waste water facilities.

(I) Toll bridges.

(2) Any other property required for the use and occupation of the buildings and leased to government.

(3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.

(4) Any building and its equipment in the course of construction

on or after the first Monday of March 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

"Uniquely of a governmental character" means the property, except hospitals, water systems, waste water facilities and toll bridges, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

(c) As used in this section "property" does not include any possessory interest of any person or organization not exempt from taxation.

(d) As used in this section "nonprofit corporation" means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and that nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. That nonprofit corporation shall qualify as an exempt organization either under Section 23701f or 23701u of this code or Section 501(c)(4) of the Internal Revenue Code of 1986. This subdivision is not intended to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(4) of the Internal Revenue Code of 1986 but not otherwise qualified for the "welfare exemption" under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

(e) As used in this section "government" means the State of California, a city, city and county, county, public corporation, and a hospital district.

(f) The exemption provided for in this section shall be deemed to be within the "welfare exemption" for purposes of Section 251.

(g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.

(h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b)(1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.

(i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.

(j) Where the construction has commenced on or after January 1,

1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.

(k) For purposes of subdivision (d), a nonprofit corporation shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

SEC. 6. Section 251 of the Revenue and Taxation Code is amended to read:

251. (a) (1) The board shall prescribe all procedures and forms required to carry into effect any property tax exemption enacted by the Legislature or by constitutional amendment.

(2) All of the procedures and forms for new exemptions and for substantive changes to existing property tax exemption procedures and forms shall be prescribed by the board after consultation with the California Assessors' Association.

(b) (1) The procedures prescribed pursuant to subdivision (a) shall be deemed satisfied by a qualified lessor by submission to the assessor within 120 days of the commencement date of the lease, or 120 days after the effective date of the act adding this subdivision to this section with respect to any existing lease, whichever is later, information which may be requested by the board with respect to the lease.

(2) For purposes of this subdivision, "a qualified lessor" is a lessor under a contract designated as a lease between that lessor and an entity using property which qualifies for the property tax exemption provided for by subdivision (d) or (e) of Section 3 of Article XIII of the California Constitution under which the lessee has the option at the end of the lease term of acquiring the property described in the lease for one dollar ($1), or any other nominal sum.

(3) No filing or application for exemption shall thereafter be required by a qualified lessor with respect to that lease unless the option terms of the lease change.

SEC. 7. Section 254 of the Revenue and Taxation Code is amended to read:

254. Any person claiming the church, cemetery, college, exhibition, welfare, veterans' organization, free public libraries, free museums, aircraft of historical significance, or public schools property tax exemption and anyone claiming the classification of a vessel as a documented vessel eligible for assessment under Section 227, shall submit to the assessor annually an affidavit, giving any information required by the board.

SEC. 8. Section 255 of the Revenue and Taxation Code is amended to read:

255. (a) Affidavits required for exemptions named in this article, except the church exemption, the veterans' exemption, the

homeowners' exemption, the religious exemption, and the aircraft of historical significance exemption, shall be filed with the assessor between the lien date and 5 p.m. on March 15. Affidavits for the veterans' exemption shall be filed with the assessor between the lien date and 5 p.m. on April 15.

(b) Affidavits for the homeowners' exemption except as otherwise provided in Sections 255.1, 255.2, and 275, shall be filed with the assessor any time after the claimant becomes eligible but no later than 5 p.m. on April 15.

(c) Affidavits required for the aircraft of historical significance exemption and for classification of vessels as documented vessels eligible for assessment under Section 227 shall be filed with the assessor between the lien date and 5 p.m. on April 1.

(d) Affidavits for the church exemption and religious exemption shall be filed with the assessor between the lien date and 5 p.m. on March 31.

(e) Notwithstanding the provisions of subdivision (a), any claimant who has been found ineligible for the church exemption or the religious exemption after timely filing an affidavit therefor pursuant to subdivision (d), may file an affidavit for a welfare exemption. Affidavits for the welfare exemption filed pursuant to this subdivision shall be filed within 15 days from the date of notification by the assessor of the claimants ineligibility for the church exemption or the religious exemption.

SEC. 9. Section 259.12 is added to the Revenue and Taxation Code, to read:

259.12. The affidavit for the aircraft of historical significance exemption shall show that both the property and the owner meet all the requirements entitling the property to the exemption.

SEC. 10. Section 606 of the Revenue and Taxation Code is amended to read:

606. When any tract of land is situated in two or more revenue districts, the part in each district shall be separately assessed. However, where the owner of two or more contiguous parcels comprising the tract is identical, and the full value of any parcel is less than two thousand dollars ($2,000) or that amount which is determined exempt pursuant to Section 155.20, that parcel may be combined with the contiguous parcel with the greatest assessed valuation.

SEC. 11. The amendment of Section 64 of the Revenue and Taxation Code, made in Section 1 of this act shall be applicable to the 1985–86 fiscal year and fiscal years thereafter. The Legislature finds and declares that farm credit banks are instrumentalities of the federal government, and that the recent reorganization of these farm credit institutions was effected pursuant to federal law and regulations. The Legislature further finds and declares that the reorganization of these institutions was of a type which would have avoided a change in ownership reappraisal under Section 64 of the Revenue and Taxation Code if the institutions had been members of

a privately owned "affiliated group" connected through stock ownership with a common parent, rather than a federal instrumentality.

SEC. 12. Legislation adding Section 23701u of the Revenue and Taxation Code in the 1987 portion of the 1987–88 Regular Session of the Legislature inadvertently omitted the amendment of Section 231 of the Revenue and Taxation Code to incorporate the reference to Section 23701u of the Revenue and Taxation Code. The amendment of Section 231 of the Revenue and Taxation Code by Section 5 of this act corrects that inadvertent omission, and does not constitute a change in, but is declaratory of, existing law.

CHAPTER 561

An act to amend Section 98.6 of the Revenue and Taxation Code, relating to local government finance.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(5) Notwithstanding any other provision of law, for purposes of this section, an existing mosquito abatement district, as provided for in Chapter 5 (commencing with Section 2108) of Division 3 of the Health and Safety Code, located in Monterey County that, on or after January 1, 1988, annexes property in a county adjoining Monterey County and which prior to the date of annexation is not a multicounty district, shall not be deemed a multicounty district.

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before August 31 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan

program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(5) Notwithstanding the limits of paragraph (2), the governing body of Monterey County or Santa Cruz County may accrue annually to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only for the costs specified in paragraph (2). However, the total amount that may be accrued pursuant to this paragraph shall not exceed 4 percent of the amount of the Special District Augmentation Fund. Any interest which accrues to this special account shall be considered part of this account and shall not be allocated or distributed in any way to the general fund of the governing body.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

CHAPTER 562

An act to amend Sections 31008, 31009, 31010, 31100, 31101, 31112, 31114, 31117, 31119, and 31125 of, and to add Section 31008.5 to, the Corporations Code, relating to Franchise Investment Law.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 31008 of the Corporations Code is amended to read:

31008. "Area franchise" means any franchise between a franchisor and a franchisee whereby the franchisee is granted the right to operate more than one unit within a specified geographical area.

SEC. 2. Section 31008.5 is added to the Corporations Code, to read:

31008.5. "Subfranchise" means any contract or agreement between a franchisor and a subfranchisor whereby the subfranchisor is granted the right, for consideration given in whole or in part for that right, to sell or negotiate the sale of franchises in the name or on behalf of the franchisor. A contract or agreement which is a franchise does not become a subfranchise merely because under its terms a person is granted the right to receive compensation for referrals to a franchisor or subfranchisor or to receive compensation for acting as a sales representative on their behalf.

SEC. 3. Section 31009 of the Corporations Code is amended to read:

31009. A "subfranchisor" is a person to whom a subfranchise is granted.

SEC. 4. Section 31010 of the Corporations Code is amended to read:

31010. Where used in this law, unless specifically stated otherwise, "franchise" includes "area franchise" and "subfranchise."

SEC. 5. Section 31100 of the Corporations Code is amended to read:

31100. There shall be exempted from any or all of the provisions of Chapter 2 (commencing with Section 31110) any other transaction which the commissioner by rule exempts as not being comprehended within the purposes of this law and the registration of which the commissioner finds is not necessary or appropriate in the public interest or for the protection of investors.

SEC. 6. Section 31101 of the Corporations Code is amended to read:

31101. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part the offer and sale of a franchise if the franchisor:

(a) Has a net worth on a consolidated basis of not less than five million dollars ($5,000,000), or has a net worth of not less than one million dollars ($1,000,000) and is at least 80 percent owned by a corporation which has a net worth on a consolidated basis of not less than five million dollars ($5,000,000), according to the franchisor's audited financial statement, and the audited financial statement of the corporation owning at least 80% of the franchisor, when necessary, for the fiscal year just ended, unless the fiscal year ended within 90 days of the date of claiming the exemption, in which case the franchisor and the corporation owning at least 80% of the franchisor, when necessary, may rely upon the next preceding fiscal year's audited financial statement for a period not to exceed 90 days from the date of its fiscal year just ended; and

(b) Has had at least 25 franchisees conducting business at all times during the five-year period immediately preceding the offer or sale; or has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; or if any corporation which owns at least 80 percent of the franchisor has had at least 25 franchises conducting business at all times during the five-year period immediately preceding the offer or sale; or such corporation has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; and

(c) Except as provided in subdivision (d), discloses in writing to each prospective franchisee, at least 10 business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 10 business days prior to the receipt of any consideration, the following information:

(1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

(2) The franchisor's principal business address and the name and address of its agent in the State of California authorized to receive service of process.

(3) The business form of the franchisor, whether corporate, partnership, or otherwise.

(4) The business experience of the franchisor, including the length of time the franchisor (i) has conducted a business of the type to be operated by the franchisees, (ii) has granted franchises for such business, and (iii) has granted franchises in other lines of business.

(5) A copy of the typical franchise contract or agreement proposed for use or in use in this state.

(6) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(7) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(8) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(9) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his or her designee services, supplies, products, fixtures, or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(10) A statement as to whether, by the terms of the franchise

agreement or other device or practice, the franchisee is limited in the goods or services offered by him or her to his or her customers.

(11) A statement of the terms and conditions of any financing arrangements when offered directly or indirectly by the franchisor or his or her agent or affiliate.

(12) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.

(13) If any statement of estimated or projected franchisee earnings is used, a statement of such estimation or projection and the data upon which it is based.

(14) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(d) In the case of a material modification of an existing franchise, disclose in writing to each franchisee information concerning the specific sections of the franchise agreement proposed to be modified and such additional information as may be required by rule or order of the commissioner. Any agreement by such franchisee to such material modifications shall not be binding upon the franchisee if the franchisee, within 10 business days after the receipt of such writing identifying the material modification, notifies the franchisor in writing that the agreement to such modification is rescinded. A writing identifying the material modification is received when delivered to the franchisee. A written notice by the franchisee rescinding an agreement to a material modification is effective when delivered to the franchisor or when deposited in the mail, postage prepaid, and addressed to the franchisor in accordance with any notice provisions in the franchise agreement, or when delivered or mailed to the person designated in the franchise agreement for the receipt of notices on behalf of the franchisor.

(e) Has filed with the commissioner a notice of exemption and paid the fee required by subdivision (f) of Section 31500 prior to an offer or sale of a franchise in this state during any calendar year in which one or more franchises are sold, excluding any major modification.

SEC. 7. Section 31112 of the Corporations Code is amended to read:

31112. Any application or amendment under this law shall be signed and verified by the franchisor or by the subfranchisor. Such verification shall be in the same manner provided in the Code of Civil Procedure for the verification of pleadings.

SEC. 8. Section 31114 of the Corporations Code is amended to read:

31114. The application for registration shall be accompanied by a proposed offering circular, which shall contain the material information set forth in the application for registration, as specified by rule of the commissioner, and such additional disclosures as the commissioner may require. The offering circular shall recite in bold

type of not less than 10-point type that registration does not constitute approval, recommendation, or endorsement by the commissioner.

SEC. 9. Section 31117 of the Corporations Code is amended to read:

31117. Upon the entry of a stop order under Section 31115 the commissioner shall promptly notify the applicant that it has been entered and of the reasons therefor and that upon receipt of written request the matter will be set down for hearing to commence within 15 business days after such receipt unless the applicant consents to a later date. If no hearing is requested within 30 days after receipt of the notice and none is ordered by the commissioner, the order will remain in effect until it is modified or vacated by the commissioner. If a hearing is requested or ordered, the commissioner, after notice and hearing in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, in connection with which the commissioner shall have all of the powers granted thereunder, may modify or vacate the order or extend it until its final determination.

SEC. 10. Section 31119 of the Corporations Code is amended to read:

31119. It is unlawful to sell any franchise in this state which is subject to registration under this law without first providing to the prospective franchisee, at least 10 business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 10 business days prior to the receipt of any consideration, whichever occurs first, a copy of the offering circular, together with a copy of all proposed agreements relating to the sale of the franchise.

SEC. 11. Section 31125 of the Corporations Code is amended to read:

31125. (a) An application for registration of a material modification of an existing franchise or of existing franchises shall be in such form and contain such information as the commissioner may by rule prescribe, and shall be accompanied by a proposed disclosure form as specified in subdivision (b). Such an application may be included with an application pursuant to Section 31111 or 31121.

(b) It is unlawful to solicit the agreement of a franchisee to a proposed material modification of an existing franchise without first delivering to the franchisee a written disclosure, in a form and containing such information as the commissioner may by rule or order require, identifying the proposed modification, either five business days prior to the execution of any binding agreement by the franchisee to such modification or containing a statement that the franchisee may, by written notice mailed or delivered to the franchisor or a specified agent of the franchisor within not less than five business days following the execution of such agreement, rescind such agreement to the material modification.

CHAPTER 563

An act to amend Section 2 of Chapter 718 of the Statutes of 1985, and Section 2 of Chapter 1236 of the Statutes of 1987, relating to schools.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Notwithstanding any other provision of law, the governing board of the Contra Costa Community College District may utilize, from October 1, 1988, through September 30, 1993, the premises located on the ground floor of One Annabel Lane, Building A, Suites 109 and 115, in San Ramon, California, 94583. During use of these facilities as authorized by this section, the premises shall not be subject to Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

SEC. 2. Section 2 of Chapter 718 of the Statutes of 1985 is amended to read:

Sec. 2. Notwithstanding any other provision of law, the Governing Board of the Allan Hancock Joint Community College District may continue to use for classroom and support services six buildings constructed between 1940 and 1945 for use as World War II barracks and two buildings constructed between 1928 and 1932 as part of the Hancock Airfield Facility, all of which presently comprise part of the campus of the Allan Hancock College. The use of the buildings herein described may be continued until December 31, 1991, or until the final completion of replacement facilities, whichever occurs first. During the period of use authorized by this section, the buildings shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23. The liability of the Allan Hancock Joint Community College District and the members of its governing board during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

SEC. 3. Section 2 of Chapter 1236 of the Statutes of 1987 is amended to read:

Sec. 2. Notwithstanding any provision in Chapter 1 (commencing with Section 81000) of Part 49 of the Education Code, the governing board of the State Center Community College District may use the Old Administration Building Complex described in Section 1 for purposes of its educational programs from the effective date of this act until January 1, 1993, upon which date this act is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends that date. During the

period of use authorized by this section, the structure shall not be subject to Article 7 (commencing with Section 81130) or Article 8 (commencing with Section 81160) of Chapter 1 of Part 49 of the Education Code.

CHAPTER 564

An act to add Section 29535.1 to the Government Code, and to amend Section 125107 of the Public Utilities Code, relating to local transportation agencies.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 29535.1 is added to the Government Code, to read:

29535.1. Notwithstanding Section 29535, for the County of Placer, the local transportation commission shall be composed of three members appointed by the board of supervisors and one member appointed by the city council of each incorporated city within the county.

SEC. 2. Section 125107 of the Public Utilities Code is amended to read:

125107. (a) Each member of the board, including the alternate members appointed pursuant to Section 125051, shall be paid seventy-five dollars ($75) for each day the member or alternate attends meetings of the board, but not to exceed three hundred dollars ($300) in any month, and his necessary and reasonable expenses in performing his duties as a board member.

(b) In addition to the compensation prescribed by subdivision (a), the board may, by resolution, authorize and designate members and alternates to be compensated for representing the board at specified meetings of other governmental entities and public agencies. Compensation may be seventy-five dollars ($75) for each day the designated member or alternate attends specified meetings, not to exceed three hundred dollars ($300) in any month.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 565

An act to amend Section 9396 of the Welfare and Institutions Code, relating to seniors.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 9396 of the Welfare and Institutions Code is amended to read:

9396. (a) There is hereby established the Community Care Facility Demonstration Project for the Elderly in accordance with the provisions of this section. The Multipurpose Senior Services Program shall administer the Community Care Facilities Demonstration Project for the Elderly. The Multipurpose Senior Services Program may contract with the State Department of Health Services for the utilization of funds from the Health Care Deposit Fund upon determination that the demonstration project qualifies for federal financial participation as stipulated in subdivision (e).

(b) The Multipurpose Senior Services Program shall contract with two local Multipurpose Senior Services Program sites to serve as demonstration sites. One site shall be in the northern and one in the southern part of the state. The sites shall be selected through a request for proposal process.

(c) The project shall serve a selected number of frail elderly persons, whose current medical assessment does not indicate the need for long-term intermediate or skilled nursing care. "Frail elderly persons," for purposes of this chapter, means those persons as defined in Section 9111 who meet current Medi-Cal criteria for being "certified" or "certifiable" for admission into intermediate or skilled nursing care facilities, and whom a physician has determined may remain in a community care facility with services as provided for by this section. Participating facilities shall be limited to those licensed community care facilities serving adults, as defined in Section 80001 of Title 22 of the California Administrative Code. During the demonstration project a total of 120 persons at any one time shall be served in the two local Multipurpose Senior Services Program sites selected for participation under this chapter. Personal care services shall be purchased through the use of funds appropriated for purposes of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9. Participation by a person or a community care facility shall be voluntary. Personal care provided pursuant to this chapter shall supplement, and not replace, personal care provided by community care facilities pursuant to statutory and regulatory requirements which are required to be met in order to obtain and maintain a community care facility license. This supplemental care shall be provided only when the level of care

needed by a person participating under this chapter exceeds that which can be provided by the community care facility pursuant to existing statutory and regulatory requirements which are required to be met in order to obtain and maintain a community care facility license. Determination as to the necessary level of care shall be based on an assessment of need performed initially, and at six-month intervals thereafter by the case manager.

(d) The pilot project shall be operated for a period of three years. The Multipurpose Senior Services Program shall submit an evaluation of this project to the Legislature not later than July 1, 1988. The evaluation shall do all of the following:

(1) Describe the service providers and the services they provide and compare them to services provided to persons within skilled nursing, intermediate care, and nonmedical community care facilities and persons receiving home health services while residing in their own homes.

(2) Describe the program participants and compare them to those residing in skilled nursing, intermediate care, and nonmedical community care facilities and persons receiving home health services while in their own homes.

(3) Contain a description of the criteria used to select participants and compare them to criteria used to determine who would be more suitably cared for in skilled nursing or intermediate care facilities.

(4) Compare the total governmental costs incurred for persons participating in this project with the costs of care provided by skilled nursing facilities.

(5) Assess the extent to which the demonstration project, in fact, did delay or prevent care in an intermediate or skilled nursing facility and the cost effectiveness of the project.

(e) Implementation of the demonstration project is dependent upon the availability of federal financial participation for the services to be provided.

Implementation of the project shall be subject to receipt of required waivers or waiver amendments. Use of existing federal waivers and existing program authority shall be the first priority for implementation of this chapter. The Multipurpose Senior Services Program shall seek new waivers from the federal government if implementation cannot be carried out through existing waivers or existing categorical programs. The Secretary of the Health and Welfare Agency shall have the authority to waive existing state statutes or regulations at the request of the Multipurpose Senior Services Program that would prohibit or restrict the ability of the Multipurpose Senior Services Program to provide for the services authorized by this section.

(f) This chapter shall become inoperative on June 30, 1989, and, as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

This demonstration project shall not be extended or expanded

unless conclusive evidence has been presented to the Legislature showing that it has been cost-effective and can be replicated.

CHAPTER 566

An act to amend Section 1214 of the Penal Code, relating to fines.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered.

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

SEC. 2. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and shall constitute a civil judgment enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order.

(c) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a

judgment for any fine ordered pursuant to Section 13967 of the Government Code.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1214 of the Penal Code proposed by both this bill and SB 2837. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 1214 of the Penal Code, and (3) this bill is enacted after SB 2837, in which case Section 1 of this bill shall not become operative.

CHAPTER 567

An act to add Section 2884.5 to the Public Utilities Code, relating to telephones, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 2884.5 is added to the Public Utilities Code, to read:

2884.5. Notwithstanding Section 2884, the commission shall require that telephone subscriber access to information services providing messages which constitute harmful matter, as defined in Section 313 of the Penal Code, be furnished by an information provider or its agent on a subscription basis only.

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

In order to, as quickly as possible, clarify the responsibilities of the Public Utilities Commission with respect to providers of information-access telephone service furnishing messages which constitute harmful matter and to provide protection to residential subscribers from unwanted information services, it is necessary that this act take effect immediately.

CHAPTER 568

An act to amend Sections 10175, 10200, and 10377 of, and to add Section 10201.1 to, the Health and Safety Code, relating to vital statistics.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 10175 of the Health and Safety Code is amended to read:

10175. Each fetal death in which the fetus has advanced to or beyond the twentieth week of uterogestation shall be registered with the local registrar of births and deaths of the district in which the fetal death was officially pronounced within eight calendar days following the event and prior to any disposition of the fetus.

SEC. 2. Section 10200 of the Health and Safety Code is amended to read:

10200. Each death shall be registered with the local registrar of births and deaths in the district in which the death was officially pronounced or the body was found, within eight calendar days after death and prior to any disposition of the human remains.

SEC. 3. Section 10201.1 is added to the Health and Safety Code, to read:

10201.1. On or after January 1, 1989, the State Registrar may create a pilot program in conjunction with up to five local registrars which elect with his or her approval to participate, for the purpose of testing the statewide viability of filing certificates of death utilizing telephone facsimile technology.

Nothing in this section shall limit the ability to file certificates of death manually within participating local districts.

SEC. 4. Section 10377 of the Health and Safety Code is amended to read:

10377. The body of any person whose death occurs in this state, or whose body is found in the state, or which is brought in from outside the state, shall not be temporarily held pending disposition more than eight calendar days after death, unless a permit for disposition is issued by the local registrar of the registration district in which the death occurred or the body was found.

CHAPTER 569

An act to add Section 2954.6 to the Civil Code, relating to mortgages.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 2954.6 is added to the Civil Code, to read:

2954.6. (a) If private mortgage insurance or mortgage guaranty insurance, as defined in subdivision (a) of Section 12640.02 of the Insurance Code, is required as a condition of a loan secured by a deed of trust or mortgage on real property, the lender or person making or arranging the loan shall notify the borrower whether or not the borrower has the right to cancel the insurance. If the borrower has the right to cancel, then the lender or person making or arranging the loan shall notify the borrower in writing of the following:

(1) Any identifying loan or insurance information necessary to permit the borrower to communicate with the insurer or the lender concerning the insurance.

(2) The conditions that are required to be satisfied before the mortgage insurance may be subject to cancellation.

(3) The procedure the borrower is required to follow to cancel the private mortgage insurance or mortgage guaranty insurance.

(b) The notice required in subdivision (a) shall be given to the borrower upon close of escrow or as soon thereafter as the lender or person making or arranging the loan knows or should know the requirements for cancellation of the private mortgage insurance or mortgage guaranty insurance. The notice shall be provided without cost to the borrower.

(c) This section shall not apply to any mortgage funded with bond proceeds issued under an indenture requiring mortgage insurance for the life of the loan nor to any insurance issued pursuant to Part 4 (commencing with Section 51600) of Division 31 of the Health and Safety Code.

CHAPTER 570

An act to add Section 10088.5 to the Insurance Code, relating to insurance.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 10088.5 is added to the Insurance Code, to read:

10088.5. Nothing in Section 10088 exempts an insurer from its obligation under a fire insurance policy to cover the losses of a fire which is caused by or follows an earthquake.

SEC. 2. This act does not constitute a change in, but is declaratory of, existing law.

CHAPTER 571

An act to amend Sections 98.6, 98.9, and 231 of the Revenue and Taxation Code, relating to local government financing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to

paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) Notwithstanding paragraph (3), for the 1988-89 fiscal year and each fiscal year thereafter, the amount computed for each special district, which, on or after July 1, 1988, ceases to be governed by the county board of supervisors or whose governing body ceases to be the same as the county board of supervisors, shall not be greater than the average annual amount computed for the last three full fiscal years in which the special district was governed by the county board of supervisors or its governing body was the same as the county board of supervisors.

(5) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(6) Notwithstanding any other provision of law, for purposes of this section, an existing mosquito abatement district, as provided for in Chapter 5 (commencing with Section 2108) of Division 3 of the Health and Safety Code, located in Monterey County that, on or after January 1, 1988, annexes property in a county adjoining Monterey County and which prior to the date of annexation is not a multicounty district, shall not be deemed a multicounty district.

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before August 31 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1

percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(k) The county auditor shall disburse funds to the special district in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

SEC. 1.5. Section 98.6 of the Revenue and Taxation Code is amended to read:

98.6. (a) Notwithstanding any other provision of this chapter, the amount allocated pursuant to Sections 96 or 97, and 98, to a special district, as defined in Article 1 (commencing with Section 2201) of Chapter 3 of Part 4, excluding multicounty districts, and the amount allocated pursuant to Section 75.70 to a special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be reduced by an amount computed as follows:

(1) A ratio shall be computed for each of the special districts equal to the amount of state assistance payment for the special district for the 1978–79 fiscal year divided by the sum of the state assistance payment for the special district plus the amount of property tax revenue allocated to the special district for the 1978–79 fiscal year pursuant to Section 26912 of the Government Code.

(2) The amount by which the allocation pursuant to Sections 75.70, 96 or 97, and 98, shall be reduced shall be equal to the allocation multiplied by the factor computed for the district pursuant to paragraph (1).

(3) For the 1984–85 fiscal year and each fiscal year thereafter, the amount computed for each special district pursuant to this subdivision, other than a special district governed by a county board of supervisors or whose governing board is the same as the county board of supervisors, shall not be greater than the amount computed for the 1983–84 fiscal year.

(4) Notwithstanding paragraph (3), for the 1988–89 fiscal year and each fiscal year thereafter, the amount computed for each special district, which, on or after July 1, 1988, ceases to be governed by the county board of supervisors or whose governing body ceases to be the same as the county board of supervisors, shall not be greater than the average annual amount computed for the last three full fiscal years in which the special district was governed by the county board of supervisors or its governing body was the same as the county board of supervisors.

(5) The total of all amounts computed for special districts within each county shall be deposited in the Special District Augmentation Fund which shall specify amounts for each governing body as defined in Section 16271 of the Government Code and which shall be allocated pursuant to subdivision (b).

(6) Notwithstanding any other provision of law, for purposes of this section, an existing mosquito abatement district, as provided for in Chapter 5 (commencing with Section 2108) of Division 3 of the Health and Safety Code, located in Monterey County that, on or after January 1, 1988, annexes property in a county adjoining Monterey County and which prior to the date of annexation is not a multicounty district, shall not be deemed a multicounty district.

(b) There is hereby created a Special District Augmentation Fund in each county to augment the revenues of special districts. On or before June 1 of each year, the governing body shall notify each special district of the estimated amount of funds in the Special District Augmentation Fund available to special districts in the coming fiscal year. The auditor shall, on or before August 31 of each year, notify each governing body, as defined in Section 16271 of the Government Code, of the amount allocated to it pursuant to this section.

(c) Within 15 days of the notice, the governing body shall hold a public hearing for the purpose of determining the distribution of the funds. The governing body shall send written notice to the legislative

body of each special district which is not governed by the board of supervisors or the city council. The notice shall include all of the following:

(1) The amount of funds disbursed to each special district and the amount of funds disbursed pursuant to subdivision (j) in the past fiscal year.

(2) The amount of funds computed pursuant to subdivision (a).

(3) The amount of funds proposed to be allocated pursuant to subdivision (j).

(4) The time and place of the hearing.

The governing body shall also publish the notice in a newspaper of general circulation in the county not less than three days prior to the hearing. The published notice shall include the time and place of the hearing.

(d) Within 30 days of the notice of allocation, the governing body shall allocate the funds to special districts, and may allocate funds pursuant to subdivision (j). The governing body shall disburse the entire amount of the fund to special districts during the fiscal year, except for the amounts allocated pursuant to subdivision (j).

(e) In determining the amount of funds to be disbursed to each special district, the governing body shall not consider any revenues raised by a special district pursuant to Article 3.6 (commencing with Section 50078) of Chapter 1 of Part 1 of Division 1, or Article 16 (commencing with Section 53970) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

(f) In determining the amount of funds to be allocated to each special district, the governing body may consider the revenues which are raised, or could be raised, by a special district from its enterprise activities.

(g) In determining the amount of funds to be allocated to each special district, the governing body shall not allocate funds to any special district which is governed by the board of supervisors or the city council if the governing body intends that those funds are to be transferred to that county or city upon or after disbursement to the special district, except as reimbursement to the city or county for services rendered to the special district.

(h) Within 30 days after determining the amount of funds to be allocated, the governing body shall send written notice to the legislative body of each special district which is not governed by the board of supervisors or the city council which shall include:

(1) The total amount of funds computed pursuant to subdivision (a).

(2) The amount of funds allocated to each special district.

(3) The amount of funds allocated pursuant to subdivision (j).

(i) In determining the amount of funds to be disbursed to a special district, the governing body may restrict the use of the funds requested by a special district for purposes of capital purchases to those purposes.

(j) The funds allocated pursuant to this section shall be used

exclusively for special districts and shall not be used for any general county or municipal expenses, except that:

(1) The governing body may allocate to its general fund an amount not to exceed the actual demonstrated cost of administering the Special District Augmentation Fund, which shall be an amount necessary to reimburse the actual demonstrated expenditures made to carry out the requirements of subdivisions (a) to (i), inclusive, and also the actual demonstrated cost of providing the assistance requested by special districts, which amount shall not exceed 1 percent of the amount in the fund.

(2) The governing body may allocate to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only the costs of the following:

(A) Expenses incurred by special districts in the event of an emergency. As used in this subparagraph, "emergency" means a sudden, unexpected occurrence which threatens the public peace, health, safety, or welfare and which is, or is likely to be, beyond the control of the services, personnel, equipment, or facilities of the special district.

(B) To carry out the purposes of the California Special District Consolidation Assistance Program established pursuant to Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code.

(C) To establish a Special District Augmentation Fund Loan program. The program funds may be loaned to special districts under those terms and conditions and in those amounts as are specified by the governing body.

(3) Notwithstanding the limits of paragraph (2), the governing body of a county with a population of less than 50,000, as determined by the Department of Finance, may allocate an amount not to exceed 2 percent of the fund. Those governing bodies may accumulate in the special account an amount not to exceed 5 percent of the fund over a period of three fiscal years.

(4) The governing body shall disburse to special districts any amount allocated pursuant to this subdivision which is greater than the limits set by paragraphs (2) and (3) in the succeeding fiscal year.

(5) Notwithstanding the limits of paragraph (2), the governing body of Monterey County or Santa Cruz County may accrue annually to a special account in its general fund an amount not to exceed 1 percent of the amount of the Special District Augmentation Fund to pay only for the costs specified in paragraph (2). However, the total amount that may be accrued pursuant to this paragraph shall not exceed 4 percent of the amount of the Special District Augmentation Fund. Any interest which accrues to this special account shall be considered part of this account and shall not be allocated or distributed in any way to the general fund of the governing body.

(k) The county auditor shall disburse funds to the special district

in the same manner as disbursements which are made from the county treasurer's property tax trust fund.

(*l*) Disbursements to cities with more than one subsidiary special district may be made to the city. Each city shall distribute these funds to their individual subsidiary special districts in accordance with the city council's final determination.

(m) Any interest which accrues to the Special District Augmentation Fund shall be considered part of the fund and shall not be allocated or distributed in any way to the general fund of the governing body.

SEC. 2. Section 98.9 of the Revenue and Taxation Code is amended to read:

98.9. Notwithstanding any other provision of law, commencing with the 1988–89 fiscal year, property tax assessed value attributable to unitary and operating nonunitary property, as defined in Section 723, and Section 723.1, which is assessed by the State Board of Equalization shall be allocated by county as provided in Section 756 and the assessed value and revenues attributable to that allocation shall be allocated within each county as follows:

(a) Each county shall establish one countywide tax rate area. The assessed value of all unitary and operating nonunitary property shall be assigned to this tax rate area. No other property shall be assigned to this tax rate area.

(b) Property assigned to the tax rate area created by subdivision (a) shall be taxed at a rate equal to the sum of the following two rates:

(1) A rate determined by dividing the county's total ad valorem tax levies for the secured roll, including levies made pursuant to Section 100, for the prior year, exclusive of levies for debt service, by the county's total ad valorem secured roll assessed value for the prior year.

(2) A rate determined as follows:

(A) By dividing the county's total ad valorem tax levies for unitary and operating nonunitary property for the prior year debt service only by the county's total unitary and operating nonunitary assessed value for the prior year.

(B) Beginning with the 1989–90 fiscal year, adjusting the rate determined pursuant to subparagraph (A) by the percentage change between the two preceding fiscal years in the county's ad valorem debt service levy for the secured roll, not including unitary and operating nonunitary debt service.

(c) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (1) of subdivision (b) shall be allocated as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, each taxing jurisdiction shall be allocated an amount of property tax revenue equal to 102 percent of the amount of the aggregate property tax revenue it received from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue

attributable to levies for debt service.

(2) If the amount of property tax revenue available for allocation in the current fiscal year is insufficient to make the allocations required by paragraph (1), the amount of revenue to be allocated to each taxing jurisdiction shall be prorated based on a factor determined by dividing the total amount of property tax revenue available to all taxing jurisdictions from unitary and operating nonunitary property in the current year, exclusive of revenue attributable to levies for debt service, by the total amount of property tax revenue received by all taxing jurisdictions from unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service.

(3) If the amount of property tax revenue available for allocation to all taxing jurisdictions in the current fiscal year from unitary and operating nonunitary property, exclusive of revenue attributable to levies for debt service, exceeds 102 percent of the property tax revenue received by all taxing jurisdictions from all unitary and operating nonunitary property in the prior fiscal year, exclusive of revenue attributable to levies for debt service, the amount of revenue in excess of 102 percent shall be allocated to all taxing jurisdictions in the county by a ratio determined by dividing each taxing jurisdiction's share of the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service, by the county's total ad valorem tax levies for the secured roll for the prior year, exclusive of levies for debt service.

(d) The property tax revenue derived from the assessed value assigned to the countywide tax rate area pursuant to subdivision (a) by the use of the tax rate determined in paragraph (2) of subdivision (b) shall be allocated as follows:

(1) An amount shall be computed for each taxing jurisdiction which shall be determined by multiplying the amounts required in the current year pursuant to subdivisions (a) and (c) of Section 93 by that percentage which shall be determined by dividing the amount of property tax revenue the jurisdiction received in the prior year from unitary property and operating nonunitary property by the total amount of property tax revenue the jurisdiction received in the prior year from all property.

(2) The amount of property tax revenue available for allocation pursuant to this subdivision shall be allocated among taxing jurisdictions in the proportion that the amount computed for each taxing jurisdiction pursuant to paragraph (1) bears to the total amount computed pursuant to paragraph (1) for all taxing jurisdictions.

(3) If a taxing jurisdiction is levying a tax rate for debt service for the first time in the current fiscal year, for purposes of determining the percentage specified in paragraph (1), that percentage shall be the percentage determined by dividing the amount of property tax revenue received by that taxing jurisdiction in the prior year pursuant to subdivision (c) from unitary and operating nonunitary

property by the total amount of property tax revenue received by that taxing jurisdiction in the prior year from the locally assessed secured roll.

(e) For purposes of this section:

(1) "The county's total ad valorem tax levies for the secured roll" means all ad valorem tax levies for the county's secured roll, including the general tax levy, levies for debt service (including land only and land and improvement rates), and levies for redevelopment agencies.

(2) "The county's total ad valorem secured roll" means the county's local roll, after all exemptions except the homeowner's exemption, and the county's utility roll.

(3) "Taxing jurisdiction" includes a redevelopment agency, and a Special District Augmentation Fund created pursuant to Section 98.6.

(f) The assessed value of the unitary and operating nonunitary property shall be kept separate for each state assessee throughout the allocation process.

(g) Each state assessee shall be issued only one tax bill for all unitary and operating nonunitary property within the county.

(h) This section does not apply to unitary property of regulated railway companies.

(i) This section does not apply to property which on July 1, 1987, was undeveloped and owned by a utility and which is located within a city, county, or city and county which adopts a resolution stating that the property is subject to a development agreement and that this section shall not apply to that property, and the city, county, or city and county transmits a copy of that resolution, including a legal description of the property, to the State Board of Equalization and the county's auditor-controller prior to January 1, 1988.

SEC. 3. Section 231 of the Revenue and Taxation Code is amended to read:

231. (a) Property which is owned by a nonprofit corporation and leased to, and used exclusively by, government for its interest and benefit shall be exempt from taxation within the meaning of "charitable purposes" in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution if:

(1) All of the provisions of Section 214 are complied with, except paragraph (6) of subdivision (a). For purposes of paragraph (6) of subdivision (a) of Section 214, irrevocable dedication to charitable purpose shall be deemed to exist if the lease provides that the property shall be transferred in fee to the entity of government leasing the same upon the sooner of either the liquidation, dissolution, or abandonment of the owner or at the time the last rental payment is made under the provisions of the lease.

(2) All of the provisions of Section 254.5 relating to owners are complied with, commencing during calendar year 1969.

(3) All of the provisions of Section 214.01 are complied with by March 15, 1970.

(b) As used in this section "property" means:

(1) Any building or structure of a kind or nature which is uniquely of a governmental character and includes, but is not limited to, the following:

(A) City halls.

(B) Courthouses.

(C) Administration buildings.

(D) Police stations, jails, or detention facilities.

(E) Fire stations.

(F) Parks or playgrounds.

(G) Hospitals.

(H) Water systems and waste water facilities.

(I) Toll bridges.

(2) Any other property required for the use and occupation of the buildings and leased to government.

(3) Any possessory interest of the nonprofit corporation in property and in the land upon which the property was constructed and so much of the surrounding land that is required for the use and occupation of the property.

(4) Any building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building when such building and equipment is being constructed for the sole purpose of being leased to government to lessen its burden.

"Uniquely of a governmental character" means the property, except hospitals, water systems, waste water facilities and toll bridges, is not intended to produce income or revenue in the form of rents or admission, user or service fees, or charges.

(c) As used in this section "property" does not include any possessory interest of any person or organization not exempt from taxation.

(d) As used in this section "nonprofit corporation" means a community chest, fund, foundation or corporation, not conducted for profit, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and that nonprofit corporation is organized and operated for the sole purpose of leasing property to government and to lessen the burden of government and, in fact, only leases property to government. That nonprofit corporation shall qualify as an exempt organization either under Section 23701f or 23701u of this code or Section 501(c)(4) of the Internal Revenue Code of 1986. This subdivision is not intended to enlarge the "welfare exemption" to apply to organizations qualified under Section 501(c)(4) of the Internal Revenue Code of 1986 but not otherwise qualified for the "welfare exemption" under this section. Nonprofit corporations meeting the tests of this subdivision are deemed to be organized and operated for charitable purposes.

(e) As used in this section "government" means the State of California, a city, city and county, county, public corporation, and a

hospital district.

(f) The exemption provided for in this section shall be deemed to be within the "welfare exemption" for purposes of Section 251.

(g) For leases first entered into by and between government and nonprofit corporation on or after January 1, 1969, all requirements of this section shall be met for the property and the nonprofit corporation to qualify for the exemption provided by this section.

(h) For leases first entered into by and between government and nonprofit corporation on or before December 31, 1968, all requirements of this section shall be met except that the last unnumbered paragraph of subdivision (b) shall not apply and for the purposes of subdivision (b) (1) the list of real property qualifying for this exemption includes community recreation buildings or facilities, golf courses, airports, water, sewer and drainage facilities, music centers and their related facilities, and public parking incidental to and in connection with one of the buildings or structures set forth in this section.

(i) Property exempt under this section shall be located within the boundaries of the entity of government leasing the same.

(j) Where the construction has commenced on or after January 1, 1969, improvements shall be advertised and put to competitive bid to qualify for the exemption provided by this section.

(k) For purposes of subdivision (d), a nonprofit corporation shall not be deemed to be qualified as an exempt organization unless the organization files with the assessor duplicate copies of a valid, unrevoked letter or ruling from either the Franchise Tax Board or, in the alternative, the Internal Revenue Service, which states that the organization qualifies as an exempt organization under the appropriate provisions of the Bank and Corporation Tax Law or the Internal Revenue Code.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 98.6 of the Revenue and Taxation Code proposed by both this bill and SB 2737. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, but this bill becomes operative first, (2) each bill amends Section 98.6 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 2737, in which case Section 98.6 of the Revenue and Taxation Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of SB 2737, at which time Section 1.5 of this bill shall become operative.

SEC 5. Legislation adding Section 23701u of the Revenue and Taxation Code in the 1987 portion of the 1987–88 Regular Session of the Legislature inadvertently omitted the amendment of Section 231 of the Revenue and Taxation Code to incorporate the reference to Section 23701u of the Revenue and Taxation Code. The amendment of Section 231 of the Revenue and Taxation Code by Section 3 of this act corrects that inadvertent omission, and does not constitute a change in, but is declaratory of, existing law.

SEC. 6. Notwithstanding Article 4 (commencing with Section

29080) of Chapter 1 of Division 3 of Title 3 of the Government Code, the board of supervisors of each county shall begin public hearings on the final county budget for the 1988–89 fiscal year on or before September 19, 1988, and shall complete these hearings and adopt the final budget on or before September 30, 1988.

SEC. 7. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the appropriate adjustments in property tax revenue allocations for special districts contemplated by this act may be implemented by county auditors as of the commencement of the 1988–89 fiscal year, and in order to provide the board of supervisors of each county with more time to consider and adopt a final budget for the 1988–89 fiscal year, it is necessary that this act go into immediate effect.

CHAPTER 572

An act to repeal and add Section 11624.6 of the Insurance Code, relating to insurance.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 11624.6 of the Insurance Code is repealed.

SEC. 2. Section 11624.6 is added to the Insurance Code, to read:

11624.6. Every insurer, agent, or broker assigned an application by the plan may conclusively rely on the acceptance, rejection, or waiver of coverages stated in the application signed by the applicant. A policy shall only be issued for the coverages, limits, and deductibles stated in the application assigned by the plan. This section shall apply to all applications assigned by the plan which are submitted to the plan by a person licensed pursuant to Chapter 5 (commencing with Section 1621) of Part 2 of Division 1.

CHAPTER 573

An act to amend Section 98.7 of the Revenue and Taxation Code, to amend Sections 16700, 16702, 16704, and 16705 of the Welfare and Institutions Code, and to amend Section 3 of Chapter 380 of the Statutes of 1959, relating to health.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 16700 of the Welfare and Institutions Code is amended to read:

16700. (a) For purposes of this part, "local jurisdiction" means a county or a city which has not transferred to the county enforcement authority of applicable health statutes and regulations, or a city which provides public health services pursuant to a contract with a county through an organized health department recognized by the State Department of Health Services.

(b) (1) On or before September 15 of the 1982–83 and 1983–84 fiscal years, the governing body of each county, the City of Berkeley, and each existing local health district shall adopt and submit to the State Director of Health Services an update of its adopted 1981–82 county health services plan and budget in the form and in accordance with procedures specified by the director.

(2) On or before September 15, 1983, and each third subsequent year thereafter, the governing body of each county and the City of Berkeley shall adopt and submit to the department a multiyear base county health services plan and budget for the next fiscal year in the form and in accordance with procedures established in regulations promulgated by the department. The Cities of Long Beach and Pasadena shall adopt and submit the multiyear plan and budget by September 15 of the initial fiscal year of receiving county health services funds, and adhere in following years to the same three-year submission cycle used by the other health jurisdictions in following years.

(3) On or before September 15 of 1984 and each year thereafter, the governing body of each county and the City of Berkeley shall adopt and submit to the department an update of its adopted multiyear county health services plan and budget in the form and in accordance with procedures established in regulations promulgated by the department. The Cities of Long Beach and Pasadena shall submit the update of its multiyear plan and budget in the fiscal year following the initial year of receiving county health service funds, and each year thereafter.

(c) The county health services plan and budget adopted by the governing body of each county shall include, but not be limited to, the following information:

(1) The eligibility criteria that will be used by the county in determining the allocation of funds received and services provided pursuant to Section 16703.

(2) A description of the county's eligibility process, beneficiary notification on availability of services, services to be provided, accessibility of service, resources, collections, target population size, and costs.

(d) The department shall develop and implement the regulations governing the form and procedures for the preparation and submission of multiyear base county health services plans and budgets and updates in order for the counties to have sufficient time prior to September 15, 1983, to prepare and submit their multiyear base county health services plans and budgets by September 15, 1983.

(e) For the purposes of simplifying and reducing plan requirements, the Legislature intends that the annual update shall not duplicate any of the material in the multiyear base county health services plan and budget, but shall serve as a progress report both evaluating what has been accomplished over the past year and describing what will be accomplished in relation to each of the elements in the multiyear base county health services plan and budget during the coming year.

(f) An update or a multiyear county health services plan and budget shall be considered a county health services plan and budget for purposes of this part.

SEC. 2. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county health services plan and budget shall be financed in each county, the City of Berkeley, the City of Long Beach, and the City of Pasadena with assistance from the County Health Services Fund in accordance with the following:

(a) For each county, an annual grant of three dollars ($3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The base net costs increased by 16 percent for the 1979–80 fiscal year.

(2) The amount calculated for the county in subdivision (a).

(3) The base net costs for each county shall be the actual net costs for the county for the 1977–78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978 and adjusted as applicable pursuant to this section.

(c) (1) The amount of assistance from the County Health Services Fund for the County of Alameda, as determined in subdivision (b), shall include an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f)

of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(2) The amount of assistance from the County Health Services Fund for the City of Berkeley shall be an amount equal to 25 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979–80 fiscal year.

(3) The amount of additional assistance from the County Health Services Fund for public health services in the County of San Joaquin shall be the amount set forth in the Budget Act of 1981 (Chapter 99 of the Statutes of 1981) for the San Joaquin Local Health District for that purpose for the 1981–82 fiscal year.

(4) The amounts of assistance from the County Health Services Fund for the City of Long Beach and the City of Pasadena shall be the average amounts of the Public Health Services Contracts with Los Angeles County, less the average revenue from environmental health permit fees collected in each jurisdiction and retained by the county for three years prior to the initial year of County Health Services Fund assistance to the City of Long Beach and the City of Pasadena. These amounts shall be adjusted by the average increase in the amount of the contract over the same period. This paragraph shall be operative in the fiscal year following the adoption of a resolution by the governing body pursuant to Section 477 of the Health and Safety Code.

(5) The base net costs for the County of Los Angeles shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena as determined y the formula established in paragraph (3).

(6) The amount of assistance for the County of Los Angeles, as determined in subdivision (a), shall be reduced by the amounts provided to the City of Long Beach and the City of Pasadena, as determined in paragraph (3).

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) On July 1, 1980, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. On July 1, 1981, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and shall be adjusted to reflect the funds transferred pursuant to Section 12 of Chapter 1004 of the Statutes of 1981. On July 1, 1982, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect the increases, if any, in the appropriations provided for in the Budget Act for the 1981–82 fiscal year and the increases, if any, in the Budget Act for the 1982–83 fiscal year. On July 1, 1983, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d), as adjusted pursuant to this subdivision for the 1982–83 fiscal year, shall be adjusted to

reflect any increases or decreases in the cost of living occurring during the 1982 calendar year and each year thereafter. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisons (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 3. Section 16704 of the Welfare and Institutions Code is amended to read:

16704. Funds from the County Health Services Fund shall be allocated to the governing body of each county, the City of Berkeley, the City of Long Beach, and the City of Pasadena annually in accordance with the following procedures:

(a) The allocation of the amount determined in subdivision (a) of Section 16702 and one-third of the amount in paragraphs (2), (3), and (4) of subdivision (c) of Section 16702 shall be made to each governing body of each local jurisdiction upon submission of the plan and budget as required by Section 16700. These funds shall be expended for county health services and public health services for cities as defined in paragraph (5) of subdivision (b).

(b) The allocation of the amounts up to the maximum determined in subdivisions (b), (c), and (d) of Section 16702 shall be made upon application by the governing body of each local jurisdiction and upon signing of an agreement between the governing body and the State Director of Health Services. In the agreement, (1) all local jurisdictions shall agree to expend funds in an aggregate amount at least equal to the total amount designated in the plan and budget submitted pursuant to Section 16700; (2) counties shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this subdivision pursuant to subdivision (b) of Section 16702; (3) counties shall agree to expend one dollar ($1) of county funds for every three dollars ($3) of state funds requested pursuant to subdivision (d) of Section 16702; (4) the City of Berkeley shall agree to expend three dollars ($3) of city funds for every one dollar ($1) of state funds requested pursuant to paragraph (2) of subdivision (c) of Section 16702; and (5) San Joaquin County shall agree to expend two dollars ($2) of county funds for public health services for every one dollar ($1) of state funds requested pursuant to paragraph (3) of subdivision (c) of Section 16702. Funds requested pursuant to subdivision (d) and paragraph (3) of subdivsion (c) of Section 16702 shall be expended only for public health services. The City of Long Beach and the City of Pasadena shall agree to expend the allocations received pursuant to paragraph (3) of subdivision (c) of Section 16702 only for public

health services, exclusive of animal control and paramedic services.

(c) (1) The allocation of funds appropriated pursuant to subdivisions (c) and (d) of Section 16703 shall be made upon application by the county board of supervisors. The application shall be in a form and in accordance with procedures and format established by the department. The board shall assure that it will expend such funds only for the health services specified in Sections 14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000. Unless the county has entered into a contract with the department under Section 16709 which is effective either for an entire fiscal year, including the 1983–84 fiscal year, or is effective for the period commencing October 1, 1983, and ending on June 30, 1984, the board shall also assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702. These assurances shall be incorporated in the agreement specified in subdivision (b). In no event shall such funds be expended for costs of services specified in county Short-Doyle plans which are in excess of the 125 percent limitation specified in Section 5705.1.

(2) A county may reduce the amount of net costs of county funds for county health services required pursuant to paragraph (1) of subdivision (c) to the extent such reduction has been permitted pursuant to the provisions of Section 16705 or 16705.5, provided that, for fiscal year 1982–83 only, the provisions of Section 16705 shall not be operative, except for counties which received approval for reductions pursuant to this section in prior fiscal years.

(3) Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service or to preclude a county from utilizing its own forms for the purpose of identifying persons eligible for county health care services. The Board of Control shall not honor any claims by a local agency for reimbursement of costs under this section. The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandate that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1985, unless a later enacted statute extends or deletes that date.

(d) The agreement shall provide for reports of expenditures and information and shall constitute a contractual obligation. The State Director of Health Services shall not have the authority to

disapprove the county health services plan or to require the additional expenditure of county or city for health services beyond that required by this section and Section 16707.

(e) The local jurisdiction shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

(f) Notwithstanding any other provision of this part, there shall be no increase in the amount of county funds required pursuant to paragraph (2) of subdivision (b) as a result of the implementation of paragraphs (4), (5), and (6) of subdivision (c) of Section 16702.

SEC. 4. Section 16705 of the Welfare and Institutions Code is amended to read:

16705. (a) A local jurisdiction shall be entitled to receive up to its maximum allocation under subdivision (b) and paragraphs (2) and (3) of subdivision (c) of Section 16702 respectively even if it proposes in its budget to spend less for county health services than the amount required to obtain the maximum allocation, only if all of the following conditions are met:

(1) There would be no detrimental impact on the public in the case of public health services and indigents in the case of inpatient and outpatient services.

(2) There would be no impairment in the local jurisdiction's ability to carry out the service levels specified in its county health services plan.

(3) The determination of whether the requirements provided by paragraphs (1) and (2) are met is made according to procedures specified in subdivision (b).

(4) For each county, in no case shall the state pay more than 60 percent of the amount derived by subtracting subparagraph (B) from subparagraph (A) below:

(A) Total net county costs for health services in the proposed budget.

(B) The amount of the annual grant received by the county pursuant to subdivision (a) of Section 16702.

(5) For the City of Berkeley, in no case shall the state pay more than 30 percent of the total net local costs for health services in the proposed budget.

(6) For the County of San Joaquin, in no case shall the state pay more than 40 percent of the total net local costs for public health services in the county's proposed budget.

(b) The determination in paragraphs (1) and (2) of subdivision (a) shall be made in the following manner:

(1) Within 30 days of adoption of the county health services plan and budget, the governing body of the local jurisdiction shall hold a public hearing to determine whether the amount of the reduction is detrimental to the health needs of the public in the case of public health services or detrimental to the health care needs of the indigent in the case of outpatient or inpatient health services and whether or not such reduction would impair the local jurisdiction's ability to carry out the service levels specified in its county health

services plan. Notice of the hearing shall be published at least once in a newspaper of general circulation not less than 10 days before the hearing.

(2) The governing body shall make a finding based on the public hearing that reductions are or are not detrimental and whether or not reduction would impair the local jurisdiction's ability to carry out the service levels specified in its county health services plan. The local jurisdiction shall transmit immediately to the director a copy of the finding, together with the written evidence on which the finding was based.

(3) The State Director of Health Services shall make the final determination as to whether the proposed reductions in expenditures for county health services detrimentally affects the public in the case of public health services or detrimentally affects the indigents in the case of outpatient and inpatient services and whether or not reductions would impair the local jurisdiction's ability to carry out the service levels specified in its county health services plan.

SEC. 5. Section 98.7 of the Revenue and Taxation Code is amended to read:

98.7. In the case of any county taking over the responsibilities of an independent local health special district created pursuant to Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as enacted by Chapter 60 of the Statutes of 1939, for purposes of computations pursuant to this chapter, except Section 98.6, the amount of state assistance payments with respect to that county shall be increased by five hundred four thousand nine hundred fifty-seven dollars ($504,957).

SEC. 6. Section 3 of Chapter 380 of the Statutes of 1959, as amended by Chapter 487 of the Statutes of 1986, is amended to read:

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

SEC. 7. Notwithstanding the provisions of Chapter 6 (commencing with Section 880) of Part 2 of Division 1 of the Health and Safety Code, as the provisions of that chapter existed at the time of their repeal, and the provisions of the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 5 of the Government Code) the district is hereby dissolved effective July 1, 1989. The district shall transfer its real and personal property including, but not limited to, any moneys of the district and district revenues derived from local, state, or federal sources to the County of San Joaquin which shall assume the district's responsibilities.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the programs specified in this act.

SEC. 9. Sections 1 to 6, inclusive, shall become operative July 1, 1989.

CHAPTER 574

An act to amend Section 868.5 of the Penal Code, relating to victims of crime.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, 647.6, or former Section 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of up to two family members of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. Nothing in this section shall be construed to preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing a witness.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given

by that person or those persons would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

SEC. 2. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, 647.6, or former Section 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of up to two persons of his or her own choosing, one of whom may be a witness, at the preliminary hearing and at the trial, or at a juvenile court proceeding, during the testimony of the prosecuting witness. Only one of those support persons may accompany the witness to the witness stand, although the other may remain in the courtroom during the witness' testimony. The person or persons so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person or persons are related to the prosecuting witness as a parent, guardian, or sibling and do not make notes during the hearing or proceeding.

(b) If the person or persons so chosen are also prosecuting witnesses, the prosecution shall present evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony. In the case of a juvenile court proceeding, the judge shall inform the support person or persons that juvenile court proceedings are confidential and may not be discussed with anyone not in attendance at the proceedings. In all cases, the judge shall admonish the support person or persons to not prompt, sway, or influence the witness in any way. Nothing in this section shall preclude a court from exercising its discretion to remove a person from the courtroom whom it believes is prompting, swaying, or influencing a witness.

(c) The testimony of the person or persons so chosen who are also prosecuting witnesses shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during that testimony. Whenever the evidence given by that person or those persons would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

SEC. 3. Section 2 of this bill incorporates, in substance, amendments to Section 868.5 of the Penal Code proposed by both this bill and AB 3562. It shall only become operative if (1) both bills

are enacted and become effective on January 1, 1989, (2) each bill amends Section 868.5 of the Penal Code, and (3) this bill is enacted after AB 3562, in which case Section 1 of this bill shall not become operative.

CHAPTER 575

An act to amend Sections 2030, 2031, and 2033 of the Code of Civil Procedure, relating to discovery.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 2030 of the Code of Civil Procedure is amended to read:

2030. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by propounding to any other party to the action written interrogatories to be answered under oath.

(b) A defendant may propound interrogatories to a party to the action without leave of court at any time. A plaintiff may propound interrogatories to a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to propound interrogatories at an earlier time.

(c) (1) A party may propound to another party (1) 35 specially prepared interrogatories, and (2) any additional number of official form interrogatories, as described in Section 2033.5, that are relevant to the subject matter of the pending action. Except as provided in paragraph (8), no party shall, as a matter of right, propound to any other party more than 35 specially prepared interrogatories. If the initial set of interrogatories does not exhaust this limit, the balance may be propounded in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 specially prepared interrogatories served, if that party states an objection to the balance, under paragraph (3) of subdivision (f), on the ground that the limit has been exceeded.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may propound a greater number of specially prepared interrogatories to another party if this greater number is warranted because of any of the following:

(A) The complexity or the quantity of the existing and potential issues in the particular case.

(B) The financial burden on a party entailed in conducting the discovery by oral deposition.

(C) The expedience of using this method of discovery to provide to the responding party the opportunity to conduct an inquiry, investigation, or search of files or records to supply the information sought.

If the responding party seeks a protective order on the ground that the number of specially prepared interrogatories is unwarranted, the propounding party shall have the burden of justifying the number of these interrogatories.

(3) Any party who is propounding or has propounded more than 35 specially prepared interrogatories to any other party shall attach to each set of those interrogatories a declaration containing substantially the following:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of interrogatories.

3. This set of interrogatories will cause the total number of specially prepared interrogatories propounded to the party to whom they are directed to exceed the number of specially prepared interrogatories permitted by paragraph (1) of subdivision (c) of Section 2030 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ interrogatories to this party, of which _____ interrogatories were not official form interrogatories.

5. This set of interrogatories contains a total of _____ specially prepared interrogatories.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in the case.

7. I have personally examined each of the questions in this set of interrogatories.

8. This number of questions is warranted under paragraph (2) of subdivision (c) of Section 2030 of the Code of Civil Procedure because _____. (Here state each factor described in paragraph (2) of subdivision (c) that is relied on, as well as the reasons why any factor relied on is applicable to the instant lawsuit.)

9. None of the questions in this set of interrogatories is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

_____
(Signature)
Attorney for _____

(4) A party propounding interrogatories shall number each set of interrogatories consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the propounding party, the set number, and the identity of the responding party. Each interrogatory in a set shall be separately set forth and identified by number or letter.

(5) Each interrogatory shall be full and complete in and of itself. No preface or instruction shall be included with a set of interrogatories unless it has been approved under Section 2033.5. Any term specially defined in a set of interrogatories shall be typed with all letters capitalized wherever that term appears. No specially prepared interrogatory shall contain subparts, or a compound, conjunctive, or disjunctive question.

(6) An interrogatory may relate to whether another party is making a certain contention, or to the facts, witnesses, and writings on which a contention is based. An interrogatory is not objectionable because an answer to it involves an opinion or contention that relates to fact or the application of law to fact, or would be based on information obtained or legal theories developed in anticipation of litigation or in preparation for trial.

(7) An interrogatory may not be made a continuing one so as to impose on the party responding to it a duty to supplement an answer to it that was initially correct and complete with later acquired information.

(8) In addition to the number of interrogatories permitted by paragraphs (1) and (2), a party may propound a supplemental interrogatory to elicit any later acquired information bearing on all answers previously made by any party in response to interrogatories (1) twice prior to the initial setting of a trial date, and (2) subject to the time limits on discovery proceedings and motions provided in Section 2024, once after the initial setting of a trial date. However, on motion, for good cause shown, the court may grant leave to a party to propound an additional number of supplemental interrogatories.

(d) The party propounding interrogatories shall serve a copy of them (1) on the party to whom they are directed, and (2) on all other parties who have appeared in the action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

(e) When interrogatories have been propounded, the responding party, and any other party or affected natural person or organization

may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of interrogatories, or particular interrogatories in the set, need not be answered.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of specially prepared interrogatories is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of interrogatories, or to particular interrogatories in the set, be extended.

(4) That the response be made only on specified terms and conditions.

(5) That the method of discovery be an oral deposition instead of interrogatories to a party.

(6) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a certain way.

(7) That some or all of the answers to interrogatories be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances made the imposition of the sanction unjust.

(f) The party to whom interrogatories have been propounded shall respond in writing under oath separately to each interrogatory by (1) an answer containing the information sought to be discovered, (2) an exercise of the party's option to produce writings, or (3) an objection to the particular interrogatory. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the propounding party. Each answer, exercise of option, or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding interrogatory, but the text of that interrogatory need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. If an interrogatory cannot be answered

completely, it shall be answered to the extent possible. If the responding party does not have personal knowledge sufficient to respond fully to an interrogatory, that party shall so state, but shall make a reasonable and good faith effort to obtain the information by inquiry to other natural persons or organizations, except where the information is equally available to the propounding party.

(2) If the answer to an interrogatory would necessitate the preparation or the making of a compilation, abstract, audit, or summary of or from the documents of the party to whom the interrogatory is directed, and if the burden or expense of preparing or making it would be substantially the same for the party propounding the interrogatory as for the responding party, it is a sufficient answer to that interrogatory to refer to this subdivision and to specify the writings from which the answer may be derived or ascertained. This specification shall be in sufficient detail to permit the propounding party to locate and to identify, as readily as the responding party can, the documents from which the answer may be ascertained. The responding party shall then afford to the propounding party a reasonable opportunity to examine, audit, or inspect these documents and to make copies, compilations, abstracts, or summaries of them.

(3) If only a part of an interrogatory is objectionable, the remainder of the interrogatory shall be answered. If an objection is made to an interrogatory or to a part of an interrogatory, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the information sought is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the interrogatories are directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation, or a partnership, association, or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any responses that contain an objection.

(h) Within 30 days after service of interrogatories, or in unlawful detainer actions no later than five days prior to the date of trial, whichever is sooner, the party to whom the interrogatories are propounded shall serve the original of the response to them on the propounding party, unless on motion of the propounding party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response. The party to whom the interrogatories are propounded shall also serve a copy of the response on all other parties who have appeared in the

action, unless the court on motion with or without notice has relieved that party from this requirement on its determination that service on all other parties would be unduly expensive or burdensome.

(i) The party propounding interrogatories and the responding party may agree to extend the time for service of a response to a set of interrogatories, or to particular interrogatories in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any interrogatory to which the agreement applies in any manner specified in subdivision (f).

(j) The interrogatories and the response thereto shall not be filed with the court. The propounding party shall retain both the original of the interrogatories, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court on motion of any party and for good cause shown orders that the originals be preserved for a longer period.

(k) If a party to whom interrogatories have been directed fails to serve a timely response, that party waives any right to exercise the option to produce writings under subdivision (f), as well as any objection to the interrogatories, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party propounding the interrogatories may move for an order compelling response to the interrogatories. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey an order compelling answers, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(*l*) If the propounding party, on receipt of a response to interrogatories, deems that (1) an answer to a particular interrogatory is evasive or incomplete, (2) an exercise of the option to produce documents under paragraph (2) of subdivision (f) is unwarranted or the required specification of those documents is inadequate, or (3) an objection to an interrogatory is without merit or too general, that party may move for an order compelling a further response. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an

informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service of the response, or on or before any specific later date to which the propounding party and the responding party have agreed in writing, the propounding party waives any right to compel a further response to the interrogatories.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a further response to interrogatories, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to interrogatories, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) Without leave of court, a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. At the trial of the action, the propounding party or any other party may use the initial answer under subdivision (n), and the responding party may then use the amended answer.

The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court shall grant this motion if it determines that (1) the initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory, (2) the responding party has failed to show substantial justification for the initial answer to that interrogatory, and (3) the prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer under subdivision (n).

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to deem binding an initial answer to an interrogatory, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(n) At the trial or any other hearing in the action, so far as admissible under the rules of evidence, the propounding party or any party other than the responding party may use any answer or part of an answer to an interrogatory only against the responding party. It is not ground for objection to the use of an answer to an interrogatory that the responding party is available to testify, has

testified, or will testify at the trial or other hearing.

SEC. 2. Section 2031 of the Code of Civil Procedure is amended to read:

2031. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by inspecting documents, tangible things, and land or other property that are in the possession, custody, or control of any other party to the action.

(1) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to copy a document that is in the possession, custody, or control of the party on whom the demand is made.

(2) A party may demand that any other party produce and permit the party making the demand, or someone acting on that party's behalf, to inspect and to photograph, test, or sample any tangible things that are in the possession, custody, or control of the party on whom the demand is made.

(3) A party may demand that any other party allow the party making the demand, or someone acting on that party's behalf, to enter on any land or other property that is in the possession, custody, or control of the party on whom the demand is made, and to inspect and to measure, survey, photograph, test, or sample the land or other property, or any designated object or operation on it.

(b) A defendant may make a demand for inspection without leave of court at any time. A plaintiff may make a demand for inspection without leave of court at any time that is 10 days after the service of the summons on, or appearance by, the party to whom the demand is directed, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make an inspection demand at an earlier time.

(c) A party demanding an inspection shall number each set of demands consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the demanding party, the set number, and the identity of the responding party. Each demand in a set shall be separately set forth, identified by number or letter, and shall do all of the following:

(1) Designate the documents, tangible things, or land or other property to be inspected either by specifically describing each individual item or by reasonably particularizing each category of item.

(2) Specify a reasonable time for the inspection that is at least 30 days, or 10 days in unlawful detainer actions, after service of the demand unless the court for good cause shown has granted leave to specify an earlier date.

(3) Specify a reasonable place for making the inspection, copying, and performing any related activity.

(4) Specify any related activity that is being demanded in addition to an inspection and copying, as well as the manner in which that related activity will be performed, and whether that activity will

permanently alter or destroy the item involved.

(d) The party demanding an inspection shall serve a copy of the inspection demand on the party to whom it is directed and on all other parties who have appeared in the action.

(e) When an inspection of documents, tangible things or places has been demanded, the party to whom the demand has been directed, and any other party or affected person or organization, may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That all or some of the items or categories of items in the inspection demand need not be produced or made available at all.

(2) That the time specified in subdivision (h) to respond to the set of inspection demands, or to a particular item or category in the set, be extended.

(3) That the place of production be other than that specified in the inspection demand.

(4) That the inspection be made only on specified terms and conditions.

(5) That a trade secret or other confidential research, development, or commercial information not be disclosed, or be disclosed only to specified persons or only in a specified way.

(6) That the items produced be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the party to whom the demand was directed provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) The party to whom an inspection demand has been directed shall respond separately to each item or category of item by a statement that the party will comply with the particular demand for inspection and any related activities, a representation that the party lacks the ability to comply with the demand for inspection of a particular item or category of item, or an objection to the particular demand.

In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the demanding party. Each

statement of compliance, each representation, and each objection in the response shall bear the same number and be in the same sequence as the corresponding item or category in the demand, but the text of that item or category need not be repeated.

(1) A statement that the party to whom an inspection demand has been directed will comply with the particular demand shall state that the production, inspection, and related activity demanded will be allowed either in whole or in part, and that all documents or things in the demanded category that are in the possession, custody, or control of that party and to which no objection is being made will be included in the production.

Any documents demanded shall either be produced as they are kept in the usual course of business, or be organized and labeled to correspond with the categories in the demand. If necessary, the responding party at the reasonable expense of the demanding party shall, through detection devices, translate any data compilations included in the demand into reasonably usable form.

(2) A representation of inability to comply with the particular demand for inspection shall affirm that a diligent search and a reasonable inquiry has been made in an effort to comply with that demand. This statement shall also specify whether the inability to comply is because the particular item or category has never existed, has been destroyed, has been lost, misplaced, or stolen, or has never been, or is no longer, in the possession, custody, or control of the responding party. The statement shall set forth the name and address of any natural person or organization known or believed by that party to have possession, custody, or control of that item or category of item.

(3) If only part of an item or category of item in an inspection demand is objectionable, the response shall contain a statement of compliance, or a representation of inability to comply with respect to the remainder of that item or category. If the responding party objects to the demand for inspection of an item or category of item, the response shall (A) identify with particularity any document, tangible thing, or land falling within any category of item in the demand to which an objection is being made, and (B) set forth clearly the extent of, and the specific ground for, the objection. If an objection is based on a claim of privilege, the particular privilege invoked shall be stated. If an objection is based on a claim that the information sought is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the demand for inspection is directed shall sign the response under oath unless the response contains only objections. If that party is a public or private corporation or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for a party, that party waives any lawyer-client privilege and any protection for work product under

Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any responses that contain an objection.

(h) Within 20 days, or five days in unlawful detainer actions, after service of an inspection demand, the party to whom the demand is directed shall serve the original of the response to it on the party making the demand, and a copy of the response on all other parties who have appeared in the action, unless on motion of the party making the demand the court has shortened the time for response, or unless on motion of the party to whom the demand has been directed, the court has extended the time for response.

(i) The party demanding an inspection and the responding party may agree to extend the time for service of a response to a set of inspection demands, or to particular items or categories of items in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any item or category of item in the demand to which the agreement applies in any manner specified in subdivision (f).

(j) The inspection demand and the response to it shall not be filed with the court. The party demanding an inspection shall retain both the original of the inspection demand, with the original proof of service affixed to it, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(k) If a party to whom an inspection demand has been directed fails to serve a timely response to it, that party waives any objection to the demand, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The party making the demand may move for an order compelling response to the inspection demand. The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel a response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. If a party then fails to obey the order compelling a response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under

Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(*l*) If the party demanding an inspection, on receipt of a response to an inspection demand, deems that (1) a statement of compliance with the demand is incomplete, (2) a representation of inability to comply is inadequate, incomplete, or evasive, or (3) an objection in the response is without merit or too general, that party may move for an order compelling further response to the demand. This motion (1) shall set forth specific facts showing good cause justifying the discovery sought by the inspection demand, and (2) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by it.

Unless notice of this motion is given within 45 days of the service of the response, or on or before any specific later date to which the demanding party and the responding party have agreed in writing, the demanding party waives any right to compel a further response to the inspection demand.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response to an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party fails to obey an order compelling further response, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

(m) If a party filing a response to a demand for inspection under subdivision (f) thereafter fails to permit the inspection in accordance with that party's statement of compliance, the party demanding the inspection may move for an order compelling compliance.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel compliance with an inspection demand, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling inspection, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of or in addition to that sanction, the court may impose a monetary sanction under Section 2023.

SEC. 3. Section 2033 of the Code of Civil Procedure is amended to read:

2033. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by a written request that any other party to the action

admit the genuineness of specified documents, or the truth of specified matters of fact, opinion relating to fact, or application of law to fact. A request for admission may relate to a matter that is in controversy between the parties.

(b) A defendant may make requests for admission by a party without leave of court at any time. A plaintiff may make requests for admission by a party without leave of court at any time that is 10 days after the service of the summons on, or appearance by, that party, whichever occurs first. However, on motion with or without notice, the court, for good cause shown, may grant leave to a plaintiff to make requests for admission at an earlier time.

(c) (1) No party shall request, as a matter of right, that any other party admit more than 35 matters that do not relate to the genuineness of documents. If the initial set of admission requests does not exhaust this limit, the balance may be requested in subsequent sets. Unless a declaration as described in paragraph (3) has been made, a party need only respond to the first 35 admission requests served that do not relate to the genuineness of documents, if that party states an objection to the balance under paragraph (2) of subdivision (f) on the ground that the limit has been exceeded.

The number of requests for admission of the genuineness of documents is not limited except as justice requires to protect the responding party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense.

(2) Subject to the right of the responding party to seek a protective order under subdivision (e), any party who attaches a supporting declaration as described in paragraph (3) may request a greater number of admissions by another party if the greater number is warranted by the complexity or the quantity of the existing and potential issues in the particular case.

If the responding party seeks a protective order on the ground that the number of requests for admission is unwarranted, the propounding party shall have the burden of justifying the number of requests for admission.

(3) Any party who is requesting or who has already requested more than 35 admissions not relating to the genuineness of documents by any other party shall attach to each set of requests for admissions a declaration containing substantially the following words:

DECLARATION FOR ADDITIONAL DISCOVERY

I, _____, declare:

1. I am (a party to this action or proceeding appearing in propria persona) (presently the attorney for _____, a party to this action or proceeding).

2. I am propounding to _____ the attached set of requests for admission.

3. This set of requests for admission will cause the total number

of requests propounded to the party to whom they are directed to exceed the number of requests permitted by paragraph (1) of subdivision (c) of Section 2033 of the Code of Civil Procedure.

4. I have previously propounded a total of _____ requests for admission to this party.

5. This set of requests for admission contains a total of _____ requests.

6. I am familiar with the issues and the previous discovery conducted by all of the parties in this case.

7. I have personally examined each of the requests in this set of requests for admission.

8. This number of requests for admission is warranted under paragraph (2) of subdivision (c) of Section 2033 of the Code of Civil Procedure because _____. (Here state the reasons why the complexity or the quantity of issues in the instant lawsuit warrant this number of requests for admission.)

9. None of the requests in this set of requests is being propounded for any improper purpose, such as to harass the party, or the attorney for the party, to whom it is directed, or to cause unnecessary delay or needless increase in the cost of litigation.

I declare under penalty of perjury under the laws of California that the foregoing is true and correct, and that this declaration was executed on _____.

_____

(Signature)

Attorney for _____

(4) A party requesting admissions shall number each set of requests consecutively. In the first paragraph immediately below the title of the case, there shall appear the identity of the party requesting the admissions, the set number, and the identity of the requesting party, the set number, and the identity of the responding party. Each request for admission in a set shall be separately set forth and identified by letter or number.

(5) Each request for admission shall be full and complete in and of itself. No preface or instruction shall be included with a set of admission requests unless it has been approved under Section 2033.5. Any term specially defined in a request for admission shall be typed with all letters capitalized whenever the term appears. No request for admission shall contain subparts, or a compound, conjunctive, or disjunctive request unless it has been approved under Section 2033.5.

(6) A party requesting an admission of the genuineness of any documents shall attach copies of those documents to the requests, and shall make the original of those documents available for inspection on demand by the party to whom the requests for admission are directed.

(7) No party shall combine in a single document requests for admission with any other method of discovery.

(d) The party requesting admissions shall serve a copy of them on

the party to whom they are directed and on all other parties who have appeared in the action.

(e) When requests for admission have been made, the responding party may promptly move for a protective order. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party from unwarranted annoyance, embarrassment, oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the set of admission requests, or particular requests in the set, need not be answered at all.

(2) That, contrary to the representations made in a declaration submitted under paragraph (3) of subdivision (c), the number of admission requests is unwarranted.

(3) That the time specified in subdivision (h) to respond to the set of admission requests, or to particular requests in the set, be extended.

(4) That a trade secret or other confidential research, development, or commercial information not be admitted or be admitted only in a certain way.

(5) That some or all of the answers to requests for admission be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the responding party provide or permit the discovery against which protection was sought on terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) The party to whom requests for admission have been directed shall respond in writing under oath separately to each request. Each response shall answer the substance of the requested admission, or set forth an objection to the particular request. In the first paragraph of the response immediately below the title of the case, there shall appear the identity of the responding party, the set number, and the identity of the requesting party. Each answer or objection in the response shall bear the same identifying number or letter and be in the same sequence as the corresponding request, but the text of the particular request need not be repeated.

(1) Each answer in the response shall be as complete and straightforward as the information reasonably available to the responding party permits. Each answer shall (A) admit so much of the matter involved in the request as is true, either as expressed in the request itself or as reasonably and clearly qualified by the

responding party, (B) deny so much of the matter involved in the request as is untrue, and (C) specify so much of the matter involved in the request as to the truth of which the responding party lacks sufficient information or knowledge. If a responding party gives lack of information or knowledge as a reason for a failure to admit all or part of a request for admission, that party shall state in the answer that a reasonable inquiry concerning the matter in the particular request has been made, and that the information known or readily obtainable is insufficient to enable that party to admit the matter.

(2) If only a part of a request for admission is objectionable, the remainder of the request shall be answered. If an objection is made to a request or to a part of a request, the specific ground for the objection shall be set forth clearly in the response. If an objection is based on a claim of privilege, the particular privilege invoked shall be clearly stated. If an objection is based on a claim that the matter as to which an admission is requested is protected work product under Section 2018, that claim shall be expressly asserted.

(g) The party to whom the requests for admission are directed shall sign the response under oath, unless the response contains only objections. If that party is a public or private corporation, or a partnership or association or governmental agency, one of its officers or agents shall sign the response under oath on behalf of that party. If the officer or agent signing the response on behalf of that party is an attorney acting in that capacity for the party, that party waives any lawyer-client privilege and any protection for work product under Section 2018 during any subsequent discovery from that attorney concerning the identity of the sources of the information contained in the response. The attorney for the responding party shall sign any response that contains an objection.

(h) Within 30 days after service of requests for admission, or in unlawful detainer actions no later than five days prior to the date of trial, whichever is sooner, the party to whom the requests are directed shall serve the original of the response to them on the requesting party, and a copy of the response on all other parties who have appeared, unless on motion of the requesting party the court has shortened the time for response, or unless on motion of the responding party the court has extended the time for response.

(i) The party requesting admissions and the responding party may agree to extend the time for service of a response to a set of admission requests, or to particular requests in a set, to a date beyond that provided in subdivision (h). This agreement may be informal, but it shall be confirmed in a writing that specifies the extended date for service of a response. Unless this agreement expressly states otherwise, it is effective to preserve to the responding party the right to respond to any request for admission to which the agreement applies in any manner specified in subdivision (f). Notice of this agreement shall be given by the responding party to all other parties who were served with a copy of the request.

(j) The requests for admission and the response to them shall not

be filed with the court. The party requesting admissions shall retain both the original of the requests for admission, with the original proof of service affixed to them, and the original of the sworn response until six months after final disposition of the action. At that time, both originals may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the originals be preserved for a longer period.

(k) If a party to whom requests for admission have been directed fails to serve a timely response, that party thereby waives any objection to the requests, including one based on privilege or on the protection for work product under Section 2018. However, the court, on motion, may relieve that party from this waiver on its determination that (1) the party has subsequently served a response that is in substantial compliance with subdivision (f), and (2) the party's failure to serve a timely response was the result of mistake, inadvertence, or excusable neglect.

The requesting party may move for an order that the genuineness of any documents and the truth of any matters specified in the requests be deemed admitted, as well as for a monetary sanction under Section 2023. The court shall make this order, unless it finds that the party to whom the requests for admission have been directed has served, before the hearing on the motion, a proposed response to the requests for admission that is in substantial compliance with paragraph (1) of subdivision (f). It is mandatory that the court impose a monetary sanction under Section 2023 on the party or attorney, or both, whose failure to serve a timely response to requests for admission necessitated this motion.

(*l*) If the party requesting admissions, on receipt of a response to the requests, deems that (1) an answer to a particular request is evasive or incomplete, or (2) an objection to a particular request is without merit or too general, that party may move for an order compelling a further response. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

Unless notice of this motion is given within 45 days of the service of the response, or any specific later date to which the requesting party and the responding party have agreed in writing, the requesting party waives any right to compel further response to the requests for admission.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel further response, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a party then fails to obey an order compelling further response to requests for admission, the court may order that the matters involved in the requests be deemed admitted. In lieu of or in addition to this order, the court may impose a monetary sanction under

Section 2023.

(m) A party may withdraw or amend an admission made in response to a request for admission only on leave of court granted after notice to all parties. The court may permit withdrawal or amendment of an admission only if it determines that the admission was the result of mistake, inadvertence, or excusable neglect, and that the party who obtained the admission will not be substantially prejudiced in maintaining that party's action or defense on the merits. The court may impose conditions on the granting of the motion that are just, including, but not limited to, an order that (1) the party who obtained the admission be permitted to pursue additional discovery related to the matter involved in the withdrawn or amended admission, and (2) the costs of any additional discovery be borne in whole or in part by the party withdrawing or amending the admission.

(n) Any matter admitted in response to a request for admission is conclusively established against the party making the admission in the pending action, unless the court has permitted withdrawal or amendment of that admission under subdivision (m). However, any admission made by a party under this section is (1) binding only on that party, and (2) made for the purpose of the pending action only. It is not an admission by that party for any other purpose, and it shall not be used in any manner against that party in any other proceeding.

(o) If a party fails to admit the genuineness of any document or the truth of any matter when requested to do so under this section, and if the party requesting that admission thereafter proves the genuineness of that document or the truth of that matter, the party requesting the admission may move the court for an order requiring the party to whom the request was directed to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall make this order unless it finds that (1) an objection to the request was sustained or a response to it was waived under subdivision (*l*), (2) the admission sought was of no substantial importance, (3) the party failing to make the admission had reasonable ground to believe that that party would prevail on the matter, or (4) there was other good reason for the failure to admit.

CHAPTER 576

An act to amend Section 273.5 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, or any person who willfully inflicts upon any person who is the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year, or by a fine of up to six thousand dollars ($6,000) or by both.

(b) Holding oneself out to be the husband or wife of the person with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

(c) As used in this section, "traumatic condition" means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by a physical force.

(d) For the purpose of this section, a person shall be considered the father or mother of another person's child if the alleged male parent is presumed the natural father as set forth in Section 7004 of the Civil Code.

(e) In any case in which a person is convicted of violating this section and probation is granted, the court shall require supervised counseling as a condition of probation unless, considering all of the facts and the circumstances, the court finds counseling inappropriate for the defendant.

(f) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted under subdivision (a) for an offense that occurred within seven years of the offense of the second conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 96 hours and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program, as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant

probation or the suspension of the execution or imposition of a sentence.

(g) If probation is granted, or the execution or imposition of a sentence is suspended, for any person convicted under subdivision (a) who previously has been convicted of two or more violations of subdivision (a) for offenses that occurred within seven years of the most recent conviction, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than 30 days and that he or she participate in for no less than one year, and successfully complete, a batterer's treatment program as designated by the court. However, the court, upon a showing of good cause, may find that the mandatory minimum imprisonment, or the participation in a batterer's treatment program, or both the mandatory minimum imprisonment and participation in a batterer's treatment program, as required by this subdivision, shall not be imposed and grant probation or the suspension of the execution or imposition of a sentence.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to provide for the felony convictions of persons who inflict traumatic corporal injuries on persons who are the parents of their children and to secure the safety of victims of traumatic corporal injuries by providing a minimum period of incarceration and requiring treatment, it is necessary that this act take effect immediately.

CHAPTER 577

An act to amend Sections 12026 and 12026.2 of the Penal Code, relating to firearms.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 12026.2 of the Penal Code shall be known, and may be cited, as the Keene-Hauser Safe Transport Law.

SEC. 2. Section 12026 of the Penal Code is amended to read:

12026. (a) Section 12025 shall not be construed to prohibit any

citizen of the United States over the age of 18 years who resides or is temporarily within this state, and who is not within the excepted classes prescribed by Section 12021, from owning, possessing, keeping, or carrying anywhere within the citizen's place of residence, place of business, or on private property owned or lawfully possessed by the citizen any pistol, revolver, or other firearm capable of being concealed upon the person, and no permit or license to purchase, own, possess, keep, or carry any such firearm within the citizen's place of residence, place of business, or on private property owned or lawfully possessed by the citizen, shall be required of the citizen.

(b) Nothing in this section shall be construed as affecting the application of Section 12031.

SEC. 3. Section 12026.2 of the Penal Code is amended to read:

12026.2. (a) Section 12025 does not apply to or affect any of the following:

(1) The possession of a firearm by an authorized participant in a motion picture, television, or video production or entertainment event when the participant lawfully uses the firearm as part of that production or event or while going directly to or directly from that production or event.

(2) The possession of a firearm in a locked container by a member of any club or organization, organized for the purpose of lawfully collecting and lawfully displaying pistols, revolvers, or other firearms, while the member is at meetings of the clubs or organizations or while going directly to and coming directly from those meetings.

(3) The transportation of a firearm by a participant when going directly to or coming directly from a recognized safety or hunter safety class, or a recognized sporting event involving that firearm.

(4) The transportation of a firearm by a person mentioned in Section 12026, directly between any of the places mentioned in Section 12026.

(5) The transportation of a firearm by a person when going directly to or coming directly from a fixed place of business or private residential property for the purpose of the lawful repair or the lawful transfer of that firearm.

(6) The transportation of a firearm by a person listed in Section 12026 when going directly from the place where that person lawfully received that firearm to that person's place of residence or place of business.

(7) The transportation of a firearm by a person when going directly to or coming directly from a gun show, swap meet, or similar event to which the public is invited, for the purposes of displaying that firearm in a lawful manner.

(8) The transportation of a firearm by an authorized employee or agent of a supplier of firearms when going directly to or coming directly from a motion picture, television, or video production or entertainment event for the purpose of providing that firearm to an

authorized participant to lawfully use as a part of that production or event.

(9) The transportation of a firearm by a person when going directly to or coming directly from a target range, which holds a regulatory or business license, for the purposes of practicing shooting at targets with that firearm at that target range.

(b) In order for a firearm to be exempted under subdivision (a), while being transported to or from a place, the firearm shall be unloaded, kept in a locked container, as defined in subdivision (d), and the course of travel shall include only those deviations between authorized locations as are reasonably necessary under the circumstances.

(c) This section does not prohibit or limit the otherwise lawful carrying or transportation of any pistol, revolver, or other firearm capable of being concealed upon the person in accordance with this chapter.

(d) As used in this section, "locked container" means a secure container which is fully enclosed and locked by a padlock, key lock, combination lock, or similar locking device. The term "locked container" does not include the utility or glove compartment of a motor vehicle.

CHAPTER 578

An act to amend Sections 14300, 14803, 14859, and 15050 of, and to repeal Section 14201.5 of, the Financial Code, relating to credit unions.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 14201.5 of the Financial Code is repealed.

SEC. 2. Section 14300 of the Financial Code is amended to read:

14300. (a) If the commissioner finds, after a hearing, unless waived in writing by the licensee, that a credit union has impaired capital, or is insolvent, or is operating in an unsafe or unsound manner, or has failed to comply with Section 14858, the commissioner may take possession of the business and assets of the credit union and maintain possession, as a conservator, until such time as the commissioner shall permit it to continue business pursuant to subdivision (c), or its affairs are put in order, or it is finally liquidated.

(b) The commissioner is expressly authorized, whenever acting as conservator pursuant to subdivision (a), to do all things necessary and proper to put the credit union's affairs in order, or to effect a liquidation, whichever is appropriate, including, but not limited to,

employing attorneys, accountants, financial experts, agents and employees, and to purchase merchandise, materials, supplies, and services, and to pay for them out of the conservatorship assets at the ordinary and usual rate, and shall do all things to incur risk and obligations ordinarily incurred by managers and operators of credit unions. No such risk or obligation incurred shall be the personal risk or obligation of the commissioner or the department or their agents, servants, or employees, but shall be the risk and obligation of the conservatorship estate.

(c) If the credit union submits a satisfactory plan to restore any impairment of capital, or cure its insolvency, and to proceed with business in a sound, businesslike manner, the commissioner may permit the credit union to resume possession of the business and assets and operate as a credit union under such conditions as may be imposed by the commissioner in the public interest.

SEC. 3. Section 14803 of the Financial Code is amended to read:

14803. No credit union shall pay any commission or compensation for securing members, provided that this provision shall not limit any credit union from using growth in the number of memberships in the credit union as a part of its compensation program for its employees.

SEC. 4. Section 14859 of the Financial Code is amended to read:

14859. No credit union shall pay any commission or compensation for the sale of its shares, provided that this provision shall not limit any credit union from using growth in the number of or amount of credit union shares as a part of its compensation program for its employees.

SEC. 5. Section 15050 of the Financial Code is amended to read:

15050. No credit union shall do any of the following:

(a) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee directly or indirectly unless the obligation complies with all lawful requirements of this division with respect to obligations permitted for other members and is not on terms more favorable than those extended to other members, and the obligation is entered into in accordance with written policy adopted by the directors establishing that all directors, officers, members of the credit committee, and members of the supervisory committee shall have an equal opportunity to enter into obligations with the credit union.

(b) Enter into any obligation with any director, officer, member of the credit committee or member of the supervisory committee, directly or indirectly, not fully secured by shares or certificates for funds unless all of the following requirements are satisfied:

(1) Upon the making of the obligation, the aggregate amount of obligations outstanding, except obligations fully secured by shares, to directors, officers, members of the credit committee and their alternates, or members of the supervisory committee will not exceed 10 percent of the aggregate dollar amount of all savings capital of the credit union, except that in credit unions whose aggregate savings capital is five million dollars ($5,000,000) or more but less than ten

million dollars ($10,000,000), the aggregate amount of obligations outstanding, except obligations fully secured by shares, to directors, officers, members of the credit committee and their alternates, or members of the supervisory committee shall not exceed 15 percent of the aggregate dollar amount of all savings capital of the credit union, and in credit unions whose aggregate savings capital is less than five million dollars ($5,000,000), the aggregate amount of obligations outstanding, except obligations fully secured by shares, to directors, officers, members of the credit committee and their alternates, or members of the supervisory committee shall not exceed 20 percent of the aggregate dollar amount of all savings capital of the credit union.

(2) The obligation, except any portion of an obligation fully secured by shares, does not exceed 1 percent of the aggregate dollar amount of all savings capital of the credit union, or the maximum obligation to the credit union prescribed by subdivisions (b) and (c) of Section 15100, whichever is less, except that in credit unions whose aggregate savings capital is five million dollars ($5,000,000) or more but less than ten million dollars ($10,000,000), the obligation, except any portion of an obligation fully secured by shares, shall not exceed 2 percent of the aggregate dollar amount of all savings capital of the credit union, or the maximum obligation to the credit union prescribed by subdivisions (b) and (c) of Section 15100, whichever is less, and in credit unions whose aggregate savings capital is less than five million dollars ($5,000,000), the obligation, except any portion of an obligation fully secured by shares, shall not exceed 3 percent of the aggregate dollar amount of all savings capital of the credit union, or the maximum obligation to the credit union prescribed by subdivisions (b) and (c) of Section 15100, whichever is less.

(3) The obligation is approved by the credit committee, or in the alternative the credit manager, and by the board of directors, except that the credit manager shall not take part in any credit decision directly or indirectly for his or her benefit. The board of directors may select a loan officer to prepare a report and recommendation as to any extension of credit or other obligation requested by the credit manager.

(4) The credit union member entering into the obligation takes no part in the consideration of his or her application and does not attend any committee or board meeting while his or her application is under consideration.

(5) The names of members of the credit committee, or in the alternative, the credit manager, and board of directors who voted to authorize or ratify the obligation shall be entered in their respective minutes.

(c) Permit any director, officer, member of the credit committee, or in the alternative, the credit manager, or member of the supervisory committee to become surety for any obligation created by the credit union for anyone other than a member of their

immediate family.

(d) Enter into any obligation with any credit manager or any officer employed by the credit union, directly or indirectly, unless the obligation is in compliance with all requirements of this division with respect to obligations permitted for other members, and not on terms more favorable than those extended to other employees, and approved by the board of directors.

CHAPTER 579

An act to repeal Section 51283.3 of the Government Code, relating to land conservation contracts.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 51283.3 of the Government Code is repealed.

CHAPTER 580

An act to amend Section 18021 of the Financial Code, relating to industrial loan companies.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 18021 of the Financial Code is amended to read:

18021. (a) An industrial loan company shall not deposit its funds except with a bank, trust company, or savings and loan association authorized to do business in this state, except as provided in subdivision (b).

(b) An industrial loan company which is insured, as that term is defined in Section 18003.5, may also deposit its funds in an out-of-state financial institution, the accounts of which are insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

(c) Funds deposited in an out-of-state financial institution shall not in any case exceed the applicable amount of federal deposit insurance.

(d) The depository shall be approved by a majority vote of the board of directors or the executive committee, exclusive of the vote

of any director who is an officer, director, trustee, or shareholder of the depository so designated. An out-of-state savings and loan association subject to the Management Consignment Program of the Federal Home Loan Bank Board shall not be used as a depository.

(e) An industrial loan company shall furnish an authorization for disclosure to the commissioner of the financial records of deposits pursuant to Section 7473 of the Government Code. No deposit shall be made in an out-of-state financial institution unless that institution agrees in writing to disclose financial records of the industrial loan company to the commissioner.

CHAPTER 581

An act to amend Sections 1791, 1794.4, and 1794.41 of the Civil Code, relating to consumer warranties.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1791 of the Civil Code is amended to read:

1791. As used in this chapter:

(a) "Consumer goods" means any new product or part thereof that is used, bought, or leased for use primarily for personal, family, or household purposes, except for clothing and consumables. "Consumer goods" shall include new and used assistive devices sold at retail.

(b) "Buyer" or "retail buyer" means any individual who buys consumer goods from a person engaged in the business of manufacturing, distributing, or selling such goods at retail. As used in this subdivision, "person" means any individual, partnership, corporation, association, or other legal entity which engages in any such business.

(c) "Clothing" means any wearing apparel, worn for any purpose, including under and outer garments, shoes, and accessories composed primarily of woven material, natural or synthetic yarn, fiber, or leather or similar fabric.

(d) "Consumables" means any product which is intended for consumption by individuals, or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use.

(e) "Distributor" means any individual, partnership, corporation, association, or other legal relationship which stands between the manufacturer and the retail seller in purchases, consignments, or contracts for sale of consumer goods.

(f) "Independent repair or service facility" or "independent

service dealer" means any individual, partnership, corporation, association, or other legal entity, not an employee or subsidiary of a manufacturer or distributor, which engages in the business of servicing and repairing consumer goods.

(g) "Lease" means any contract for the lease or bailment for the use of consumer goods by an individual, for a term exceeding four months, primarily for personal, family, or household purposes, whether or not it is agreed that the lessee bears the risk of the consumer goods' depreciation.

(h) "Lessee" means an individual who leases consumer goods under a lease.

(i) "Lessor" means a person who regularly leases consumer goods under a lease.

(j) "Manufacturer" means any individual, partnership, corporation, association, or other legal relationship which manufactures, assembles, or produces consumer goods.

(k) "Place of business" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the distribution point for such goods.

(*l*) "Retail seller," "seller," or "retailer" means any individual, partnership, corporation, association, or other legal relationship which engages in the business of selling or leasing consumer goods to retail buyers.

(m) "Return to the retail seller" means, for the purposes of any retail seller that sells consumer goods by catalog or mail order, the retail seller's place of business, as defined in subdivision (k).

(n) "Sale" means (1) the passing of title from the seller to the buyer for a price, or (2) a consignment for sale.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair of a consumer product, except that this term does not include a policy of automobile insurance, as defined in Section 116 of the Insurance Code.

(p) "Assistive device" means any instrument, apparatus, or contrivance, including any component or part thereof or accessory thereto, which is used or intended to be used, to assist a physically disabled person in the mitigation or treatment of an injury or disease or to assist or affect or replace the structure or any function of the body of a physically disabled person, except that this term does not include prescriptive lenses and other ophthalmic goods unless they are sold or dispensed to a blind person, as defined in Section 19153 of the Welfare and Institutions Code and unless they are intended to assist the limited vision of the person so disabled.

(q) "Catalog or similar sale" means a sale in which neither the seller nor any employee or agent of the seller nor any person related to the seller nor any person with a financial interest in the sale participates in the diagnosis of the buyer's condition or in the selection or fitting of the device.

(r) "Home appliance" means any refrigerator, freezer, range,

microwave oven, washer, dryer, dishwasher, garbage disposal, trash compactor, or room air conditioner normally used or sold for personal, family, or household purposes.

(s) "Home electronic product" means any television, radio, antenna rotator, audio or video recorder or playback equipment, video camera, video game, video monitor, computer equipment, telephone, telecommunications equipment, electronic alarm system, electronic appliance control system, or other kind of electronic product, if it is normally used or sold for personal, family, or household purposes. The term includes any electronic accessory that is normally used or sold with a home electronic product for one of those purposes. The term excludes any single product with a wholesale price to the retail seller of less than fifty dollars ($50).

SEC. 2. Section 1794.4 of the Civil Code is amended to read:

1794.4. (a) Nothing in this chapter shall be construed to prevent the sale of a service contract to the buyer in addition to or in lieu of an express warranty if that contract fully and conspicuously discloses in simple and readily understood language the terms, conditions, and exclusions of that contract, provided that nothing in this section shall apply to a home protection contract issued by a home protection company that is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(b) Except as otherwise expressly provided in the service contract, every service contract on a new or used home appliance or home electronic product shall obligate the service contractor to provide to the buyer of the product all of the services and functional parts that may be necessary to maintain proper operation of the entire product under normal operation and service for the duration of the service contract and without additional charge.

(c) The service contract on a home appliance or home electronic product shall contain all of the following items of information:

(1) A clear description and identification of the covered product.

(2) The point in time or event when the term of the service contract commences, and its duration measured by elapsed time or an objective measure of use.

(3) If the enforceability of the service contract is limited to the original buyer or is limited to persons other than every consumer owner of the covered product during the term of the service contract, a description of the limits on transfer or assignment of the service contract.

(4) A statement of the general obligation of the service contractor in the same language set forth in subdivision (b), with equally clear and conspicuous statements of (A) any services, parts, characteristics, components, properties, defects, malfunctions, causes, conditions, repairs or remedies that are excluded from the scope of the service contract; (B) any other limits on the application of the language in subdivision (b) such as a limit on the total number of service calls; (C) any additional services which the service contractor will provide; (D) whether the obligation of the service

contractor includes preventive maintenance and, if so, the nature and frequency of the preventive maintenance that the service contractor will provide; and (E) whether the buyer has an obligation to provide preventive maintenance or perform any other obligations and, if so, the nature and frequency of the preventive maintenance and of any other obligations, and the consequences of any noncompliance.

(5) A step-by-step explanation of the procedure which the buyer should follow in order to obtain performance of any obligation under the service contract including (A) the full legal and business name of the service contractor; (B) the mailing address of the service contractor; (C) the persons or class of persons that are authorized to perform service; (D) the name or title and address of any agent, employee or department of the service contractor that is responsible for the performance of any obligations; (E) the method of giving notice to the service contractor of the need for service; (F) whether in-home service is provided or, if not, whether the costs of transporting the product, for service or repairs will be paid by the service contractor; (G) if the product must be transported to the service contractor, either the place where the product may be delivered for service or repairs or a toll-free telephone number which the buyer may call to obtain that information; (H) all other steps which the buyer must take to obtain service; and (I) all fees, charges, and other costs that the buyer must pay to obtain service.

(6) An explanation of the steps that the service contractor will take to carry out its obligations under the service contract.

(7) A description of any right to cancel the contract if the buyer returns the product or the product is sold, lost, stolen, or destroyed, or, if there is no right to cancel or the right to cancel is limited, a statement of the fact.

(8) Information respecting the availability of any informal dispute settlement process.

(d) Subdivisions (b) and (c) of this section shall become operative on July 1, 1989.

SEC. 3. Section 1794.41 of the Civil Code is amended to read:

1794.41. (a) No service contract covering any motor vehicle, home appliance or home electronic product purchased for use in this state may be offered for sale or sold unless all of the following elements exist:

(1) The contract shall contain the disclosures specified in Section 1794.4 and shall disclose in the manner described in that section the buyer's cancellation and refund rights provided by this section.

(2) The contract shall be available for inspection by the buyer prior to purchase and either the contract, or a brochure which specifically describes the terms, conditions, and exclusions of the contract, and the provisions of this section relating to contract delivery, cancellation, and refund, shall be delivered to the buyer at or before the time of purchase of the contract. Within 60 days after the date of purchase, the contract itself shall be delivered to the

buyer. If a service contract for a home appliance or a home electronic product is sold by means of a telephone solicitation, the seller may elect to satisfy the requirements of this paragraph by mailing or delivering the contract to the buyer not later than 30 days after the date of the sale of the contract.

(3) The contract shall be cancelable by the purchaser under the following conditions:

(A) Unless the contract provides for a longer period, within the first 60 days after receipt of the contract, or within the first 30 days after receipt of a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, the full amount paid shall be refunded by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract, and if no claims have been made against the contract. If a claim has been made against the contract within the first 60 days after receipt of the contract, or within the first 30 days after receipt of the contract with respect to a used motor vehicle without manufacturer warranties, home appliance, or home electronic product, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract.

(B) Unless the contract provides for a longer period for obtaining a full refund, after the first 60 days after receipt of the contract, or after the first 30 days after receipt of a contract covering a used motor vehicle without manufacturer warranties, a home appliance, or a home electronic product, a pro rata refund, based on either elapsed time or an objective measure of use, such as mileage, at the seller's option as indicated in the contract, shall be made by the seller to the purchaser if the purchaser provides a written notice of cancellation to the person specified in the contract. In addition, the seller may assess a cancellation or administrative fee, not to exceed 10 percent of the price of the service contract or twenty-five dollars ($25), whichever is less.

(C) If the purchase of the service contract was financed, the seller may make the refund payable to the purchaser, the assignee, or lender of record, or both.

(b) Nothing in this section shall apply to a home protection plan that is issued by a home protection company which is subject to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code.

(c) The amendments to this section made at the 1988 portion of the 1987–88 Regular Session of the Legislature that extend the application of this section to service contracts on home appliances and home electronic products shall become operative on July 1, 1989.

CHAPTER 582

An act to amend Section 10505 of, and to add Section 10505.1 to, the Insurance Code, relating to insurance.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 10505 of the Insurance Code is amended to read:

10505. (a) A labor union having all of the following characteristics is exempt from the provisions of this code relating to life and disability insurance in respect to the benefits herein specified and transactions connected therewith:

(1) It is organized for the purpose of collective bargaining concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work and for the mutual benefit of its members and not for profit.

(2) Either (A) it does not issue policies but provides for payment of those benefits in its bylaws, constitution, or rules and regulations; or (B) it is composed of members of one craft or industry or allied craft or industries.

(3) The payment of those benefits is incidental to the purposes of that union.

(b) Any incorporated organization, the membership and insurance in which are restricted to members of that labor union and the officers of which are members of the labor union, is likewise exempt from this code to the same extent as that labor union.

(c) Any organization described in either subdivision (a) or (b) is also exempt from all provisions of this code relating to insurance protecting against wage losses from any cause in respect to the benefits promised.

SEC. 2. Section 10505.1 is added to the Insurance Code, to read:

10505.1. (a) Any nonprofit cooperative assessment association, the membership and insurance in which are restricted to members of a labor union, is exempt from the provisions of this code relating to the supervision or regulation of insurance with respect to the provision of job protection benefits to its members. A nonprofit cooperative assessment association established pursuant to this section is not, and shall not be, a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1.

(b) "Job protection insurance" means the business of providing indemnity to conductors, engineers, motormen, brakemen, switchmen, firemen, dispatchers, clerks, operators, trackmen, signalmen, and maintenance of way personnel of steam and electric railways and to busdrivers and truckdrivers employed by common

carriers for loss of position arising from discharge or suspension, which indemnity is payable in installments that do not exceed the average monthly wage of the insured. Nothing in this section is intended to regulate or define any benefit delivery system which provides indemnity, as defined in this section, in any manner other than the sale of insurance. Labor unions providing the type of indemnity defined in this section, shall be expressly exempt from any regulation by any state agency.

CHAPTER 583

An act to amend Section 16515 of the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

I am deleting the $120,000 appropriation contained in Section 2 of Senate Bill No 2081

The counties designated to conduct the projects specified in this bill have received significant increases in their Child Welfare Services allocations in this year's Budget Orange County received an additional $1.7 million and San Diego County received an additional $9.9 million If these counties consider this program a priority, they should redirect sufficient funds from within their existing resources to implement these respite care projects

With this deletion, I approve Senate Bill No. 2081.

GEORGE DEUKMEJIAN

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

SECTION 1. Section 16515 of the Welfare and Institutions Code is amended to read:

16515. The State Department of Social Services shall select two county children's service agencies to operate a model project to provide respite care services for children with special needs in the area of physical and health handicaps in foster care. The respite care pilot project shall be operational until July 1, 1991.

(a) The director shall designate the County of Orange and the County of San Diego as the pilot counties to provide respite care for handicapped children in family homes, small family homes, as defined in paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) The services to be provided shall include respite care defined as child care occurring up to 24 hours in one day. This respite care shall not be provided for any longer than 48 hours for any child in any one month.

(c) The State Department of Social Services in conjunction with the Orange County Social Services Agency and the San Diego County Department of Social Services, shall report to the Legislature

on the effectiveness of this respite care pilot project by July 1, 1990. The evaluation report shall include, but not be limited to, the following data, by county:

(1) The number of handicapped children in family homes and small family homes before, during, and at the conclusion of the respite care pilot project.

(2) The number of foster children for whom respite care was provided by the pilot project.

(3) The number of hours of respite care provided by the pilot project.

(4) The cost of providing respite care, on an hourly and aggregated basis.

(d) This project shall be deemed to be successful if the Counties of Orange and San Diego each experience a 25 percent increase in the total number of family homes and small family homes.

SEC. 2. The sum of one hundred twenty thousand dollars ($120,000) is hereby appropriated from the General Fund to the State Department of Social Services for the 1988–89 fiscal year for implementation of Section 16515 of the Welfare and Institutions Code, sixty thousand dollars ($60,000) of which amount shall be allocated to Orange County, and sixty thousand dollars ($60,000) of which shall be allocated to San Diego County.

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

In order to provide funds for the operation of the model project to provide respite care services for handicapped children who are in family homes and small family homes within the statutory period established for the model project, it is necessary that this act take effect immediately.

CHAPTER 584

An act to amend Section 4701 of the Labor Code, relating to workers' compensation.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 4701 of the Labor Code is amended to read:

4701. When an injury causes death, either with or without disability, the employer shall be liable, in addition to any other benefits provided by this division, for all of the following:

(a) Reasonable expenses of the employee's burial, not exceeding two thousand dollars ($2,000).

(b) A death benefit, to be allowed to the dependents when the employee leaves any person dependent upon him or her for support.

CHAPTER 585

An act to add Section 25225 to the Public Resources Code, relating to energy resources.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 25225 is added to the Public Resources Code, to read:

25225. The commission shall, on or before February 1, 1989, and on or before each February 1 thereafter, prepare and submit to the Legislature a report containing a summary of every loan or grant by the commission exceeding ten thousand dollars ($10,000) made during the preceding fiscal year.

CHAPTER 586

An act to amend Section 7355 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 7355 of the Revenue and Taxation Code is amended to read:

7355. "Gallon" means the United States gallon of 231 cubic inches, without adjustment of the volumetric gallonage for temperature correction of the fuel distributed, except that temperature-corrected gallonage to 60 degrees Fahrenheit as invoiced to the purchaser with settlement made on the same basis will be accepted as the gallonage distributed with respect to the following distributions:

(a) To a distributor licensed under this part.

(b) To any person when the distribution is exempt from tax as provided in Section 7401.

(c) To any purchaser who uses the fuel exclusively for a purpose other than in motor vehicles operated upon the public highways of this state entitling the purchaser to a refund of the tax.

(d) To the United States government or any agency or

instrumentality thereof pursuant to a contract of sale requiring application of temperature correction.

(e) To any person when the quantity distributed in any single delivery to a single location is 1,000 or more gallons and temperature correction is consistently applied to all those deliveries to the purchaser over a period of 12 or more consecutive months.

CHAPTER 587

An act to amend Sections 74905, 74907, 74909, and 74912 of the Government Code, relating to courts.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 74905 of the Government Code is amended to read:

74905. (a) There shall be one clerk of the Ventura County Municipal Court, who shall be known as the court executive officer and who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The court executive officer shall receive the monthly compensation of five thousand four hundred three dollars ($5,403).

(b) There shall be one assistant court executive officer and assistant clerk of the Ventura County Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The assistant court executive officer and assistant clerk shall receive the monthly compensation of four thousand sixty-one dollars ($4,061).

(c) The rate of monthly compensation to be paid to the court executive officer and the assistant court executive officer and assistant clerk within the compensation ranges set forth in subdivisions (a) and (b) shall be established by joint action and approval of the board of supervisors and a majority of the judges of the court at an amount equal to that paid county employees with comparable experience and responsibility.

SEC. 2. Section 74907 of the Government Code is amended to read:

74907. The court executive officer may appoint the following positions which shall receive biweekly compensation specified in Section 74909:

(a) Three manager-municipal court divisions.
(b) Nine supervising court clerks.
(c) Twenty-three deputy municipal court clerks III.
(d) Twenty-six deputy municipal court clerks II.
(e) Twenty-one deputy municipal court clerks I.

(f) Two deputy municipal court clerk interpreters.
(g) Two municipal court secretaries.
(h) One supervising data entry operator.
(i) Seven data entry operators III.
(j) One administrative officer I.
(k) One municipal court executive secretary-confidential.
(*l*) One mail messenger.
(m) Five account clerks II.
(n) Two clerks.
(o) One accountant III.
(p) One supervising accountant.

SEC. 3. Section 74909 of the Government Code is amended to read:

74909. (a) The following biweekly salary schedule, which is consistent with the Salary Ordinance of the County of Ventura shall apply to the personnel of the Ventura County Municipal Court:

Municipal court classification	Biweekly rate
Manager-municipal court divisions	$1,117.52–1,359.07
Supervising court clerk	879.20–1,070.40
Deputy municipal court clerk III	724.80– 880.00
Deputy municipal court clerk II	623.80– 760.80
Deputy municipal court clerk I	524.80– 660.00
Deputy municipal court clerk interpreter	611.20– 739.20
Supervising data entry operator	668.00– 815.20
Data entry operator III	610.40– 742.40
Municipal court secretary	708.00– 859.20
Administrative officer I	1,170.76–1,508.19
Municipal court executive secretary-conference	804.80– 980.00
Mail messenger	537.60– 641.60
Account clerk II	577.60– 704.00
Clerk	434.40– 546.40
Accountant III	1,070.10–1,301.67
Supervising accountant	1,384.53–1,681.87

Merit increases within the salary range shall be in accordance with the salary merit increment plan.

(b) In the event that the above biweekly salary schedule is not applicable, then Section 74912 shall apply.

SEC. 4. Section 74912 of the Government Code is amended to read:

74912. Certain classifications in the Ventura County Municipal Court are deemed to be equivalent in position responsibility and salary level to certain classifications in the service of Ventura County and whenever the salary of an equivalent classification in the Ventura County service is adjusted by the board of supervisors, the salary of the equivalent classification in the Ventura County Municipal Court and the salary of the personnel in such

classifications, shall be adjusted an equivalent amount. Such adjustment shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the Ventura County service. Any salary increases granted or reclassifications made pursuant to this article shall be effective only until the effective date of general legislation enacted by the Legislature at its next regular session following the date such salary increases are granted or reclassifications made. Classifications deemed to be equivalent are as follows:

Municipal court classification	County classification
Manager-municipal court divisions	Manager-municipal court divisions
Supervising court clerk	Supervising court clerk
Deputy municipal court clerk III	Superior court clerk III
Deputy municipal court clerk II	Superior court clerk II
Deputy municipal court clerk I	Superior court clerk I
Deputy municipal court clerk interpreter	Superior court clerk II
Supervising data entry operator	Supervising data entry operator
Data entry operator III	Data entry operator III
Data entry operator II	Data entry operator II
Data entry operator I	Data entry operator I
Municipal court secretary	Superior court secretary
Administrative officer I	Administrative officer I
Municipal court executive secretary	Executive secretary-confidential
Mail messenger	Mail messenger
Account clerk II	Account clerk II
Clerk	Clerk
Accountant III	Accountant III
Supervising Accountant	Supervising Accountant

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 588

An act to amend Section 68097.2 of the Government Code, relating to courts.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 68097.2 of the Government Code is amended to read:

68097.2. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, any fireman, any employee of the Department of Forestry who is a forester or fire control member, or any employee of the Department of Justice who is an analyst in a technical field, who is obliged by a subpoena issued pursuant to Section 68097.1 to attend as a witness, shall receive the salary or other compensation to which he is normally entitled from the public entity by which he is employed during the time that he travels to and from the place where the court or other tribunal is located and while he is required to remain at such place pursuant to such subpoena. He shall also receive from the public entity by which he is employed the actual necessary and reasonable traveling expenses incurred by him in complying with such subpoena.

The party at whose request such subpoena is issued shall reimburse the public entity for the full cost to the public entity incurred in paying the officer his or her salary or other compensation and traveling expenses as provided for in this section, for each day that such officer is required to remain in attendance pursuant to such subpoena. The amount of one hundred fifty dollars ($150) shall be deposited with the clerk of the court or with the tribunal prior to the issuance of a subpoena pursuant to this section for each day that such officer is required to remain in attendance pursuant to such subpoena.

If the actual expenses should later prove to be less than the amount deposited, the excess of the amount deposited shall be refunded.

If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid to the public entity by the party at whose request the subpoena is issued.

If a court continues a proceeding on its own motion, no additional deposit may be required prior to the issuance of a subpoena or the making of an order directing such officer to appear on the date to which the proceeding is continued.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level

of service mandated by this act.

CHAPTER 589

An act to amend Sections 8623 and 8693 of, to add Section 8576.5 to, and to repeal Section 8695 of, the Fish and Game Code, relating to fish.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 8623 of the Fish and Game Code is amended to read:

8623. (a) It is unlawful to use any purse seine or round haul net to take yellowtail, barracuda, or white sea bass.

(b) It is unlawful to possess any yellowtail, barracuda, or white sea bass, except those taken south of the international boundary between the United States and Mexico, and imported into the state under regulations of the commission as provided in Section 2362, on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net as described in Section 8780.

(c) Gill nets with meshes of a minimum length of 3½ inches may be used to take yellowtail and barracuda.

(d) Gill nets with meshes of a minimum length of six inches may be used to take white sea bass; however, during the period from June 16 to March 14, inclusive, not more than 20 percent by number of a load of fish may be white seabass 28 inches or more in total length, up to a maximum of 10 white seabass per load, if taken in gill nets or trammel nets with meshes from 3½ to 6 inches in length.

(e) Notwithstanding the provisions of this section, the department may issue permits to hook and line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

SEC. 2. Section 8576.5 is added to the Fish and Game Code, to read:

8576.5. Thresher shark taken with drift gill nets shall not have the pelvic fin severed from the carcass until after the shark is brought ashore.

SEC. 3. Section 8693 of the Fish and Game Code is amended to read:

8693. (a) Except as otherwise provided in this code, drift gill nets and set gill nets may be used in Districts 17, 18, 19, and 20A, except for the taking of salmon.

(b) Rockfish and lingcod may be taken with drift gill nets and set gill nets in Districts 17, 18, 19, and 20A, subject to the following restrictions:

(1) Rockfish and lingcod shall not be taken between a line running due west magnetic from the lighthouse at Point Piedras Blancas and a line running due west magnetic from Point Sal in water less than 40 fathoms.

(2) Rockfish and lingcod shall not be taken between a line running 250° magnetic from the Pigeon Point Lighthouse and a line running 240° magnetic from Point Santa Cruz, inside 40 fathoms, by means of drift gill nets or set gill nets which have mesh smaller than 5½ inches.

(3) Drift gill nets and set gill nets shall not be used nor shall they be possessed on any boat taking rockfish and lingcod with mesh smaller than 4⅛ inches when used in Districts 17 and 18 north of Point Buchon, or with mesh smaller than 4⅛ inches when used in District 18 south of Point Buchon or in District 19. Drift gill nets and set gill nets used or possessed on any boat taking rockfish and lingcod in District 17, 18, or 19, shall not be constructed of twine larger than number 6 nylon, except that the bottom 15 meshes may be constructed of heavier twine.

(4) In District 18 south of Point Sal and in District 19, drift gill nets and set gill nets shall not be used to take rockfish and lingcod with the mesh of the net in waters less than 70 fathoms in depth, except that those nets shall not be used in waters less than 100 fathoms in depth at the Sixty Mile Bank.

(5) Loads or lots of fish taken in the areas described in paragraphs 1 to 4, inclusive, may contain 200 pounds or less of rockfish and lingcod in combination, but in no instance more than 100 pounds of rockfish.

(6) Gill nets shall not be used to take rockfish in District 20A.

SEC. 4. Section 8695 of the Fish and Game Code is repealed.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 590

An act to amend Sections 13532 and 13610 of, to repeal Sections 13481, 13482, 13486, 13487, 13488, and 13534 of, and to add Sections 13481, 13486, and 13534 to, the Business and Professions Code, relating to petroleum.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 13481 of the Business and Professions Code is repealed.

SEC. 2. Section 13481 is added to the Business and Professions Code, to read:

13481. If any petroleum product is offered for sale, but not under any brand, trademark, or tradename, the words "no brand" shall be used as the brand, trademark, or tradename designation. The words "No Brand" shall be in letters of gothic type with a stroke of not less than one-half inch in width, not less than three inches in height, and shall consist of red letters on a white background.

SEC. 3. Section 13482 of the Business and Professions Code is repealed.

SEC. 4. Section 13486 of the Business and Professions Code is repealed.

SEC. 5. Section 13486 is added to the Business and Professions Code, to read:

13486. (a) It is unlawful, at any place of business where petroleum products are sold, for any person to do either of the following:

(1) Deliver into a storage tank or container any petroleum product other than the product identified on the label attached to the storage tank or container.

(2) Sell by means of, or through, a pump or other device, any petroleum product other than the product identified on the required label, tag, or sign attached to the pump or other device.

(b) This section does not prohibit the delivery of motor fuel into a storage tank labeled with the authorized rebrand as provided in Article 14 (commencing with Section 13560).

SEC. 6. Section 13487 of the Business and Professions Code is repealed.

SEC. 7. Section 13488 of the Business and Professions Code is repealed.

SEC. 8. Section 13532 of the Business and Professions Code is amended to read:

13532. (a) It is unlawful for any person to display any advertising medium which indicates the price of motor fuel unless the advertising medium displays all of the following:

(1) The price per gallon or liter, including all taxes, in numerals, and fractions when applicable, not less than six inches in height and of uniform size and color. For the purpose of this article, fractions are considered one numeral.

(2) The trademark or brand of the motor fuel in letters, figures, or numerals not less than one-third the size of the numerals designating the price.

(3) The word "gasoline" or the name of other motor fuel in letters not less than one-third the size of the numerals designating the price, but these words need not be more than four inches in height.

(4) The grade designation of the motor fuel in letters or numerals not less than one-sixth the size of the numerals designating the price, but this designation need not be more than four inches in height.

(5) If motor fuel prices are advertised by the liter, the word "liter" shall be displayed on the advertising medium in letters not less than one-third the size of the numerals designating the price.

(b) (1) It is unlawful for any person to display an advertising medium which advertises a discount or price reduction for motor fuel, unless the advertising medium contains all the following:

(A) The price per gallon or liter from which the discount or price reduction is to be taken.

(B) The amount of the discount or price reduction in cents per gallon or liter using numerals which do not exceed the height of the numerals in the advertised price.

(C) The conditions of the discount or price reduction using words whose letters are not less than one-third the size of the price numerals.

(2) Any limitations under which the discount or price reduction is offered shall be explained in words whose letters are not less than one-third the size of the numerals indicating the prices.

(3) There shall be available for each customer's reference, a chart showing the amount of discount for each type unit being sold (gallon/liter) or fraction thereof in one cent ($0.01) increments, or the retail dispensers used to dispense fuel at the discount price shall be set to compute the total sale at the discounted price per gallon or liter and shall be clearly labeled "Includes Cash Discount" in letters not less than one inch in height.

(4) For purposes of this subdivision, the motor fuel shall be sold in the same unit of measure (e.g., gallons or liters) in which the discount and the price from which the discount is taken are advertised.

(c) In the event that the same grade of motor fuel is sold at different prices from any single place of business, it is unlawful for any person to display any advertising medium which advertises a price of a grade of motor fuel unless the advertising medium advertises in numerals of equal size each of the higher prices, including all taxes for which the grade is sold or offered for sale, and unless the advertising medium explains the conditions, and any limitations, under which that grade is sold or offered for sale at different prices. The words of explanation shall be clearly shown in letters at least one-third the size of the numerals indicating the prices. The different prices at which the same grade of motor fuel is sold or offered for sale shall be advertised in the same unit of measure (either price per gallon or price per liter) as permitted or required by law.

(d) Nothing in this section prohibits any person who has posted

or displayed a sign or advertising medium in compliance with this chapter from displaying additional signs or advertising media which state either (1) the amount of discount in cents per gallon or liter, or (2) the price of one or more brands or grades of motor fuel sold or offered for sale, provided the conditions and any limitations of the discount or price of the brand or grade of motor fuel are included in the additional advertising media in letters not less than one-third the size of the numerals indicating the discount or price.

SEC. 9. Section 13534 of the Business and Professions Code is repealed.

SEC. 10. Section 13534 is added to the Business and Professions Code, to read:

13534. Except as provided by subdivisions (b), (c), and (d) of Section 13532, it is unlawful for any person to place any additional advertising matter on any advertising medium referred to in this article except:

(a) A description of the products offered for sale in letters or numerals not larger than the price numerals.

(b) Methods of sale, such as self-serve or full-serve, in letters not less than one-third the size of the price numerals.

(c) Words describing the type of services offered at the place of business, such as food market, car wash, tune-up, and the registered trademark or tradename of the service, but not the price of the service.

SEC. 11. Section 13610 of the Business and Professions Code is amended to read:

13610. Each person is guilty of a separate offense for each day during any portion of which any violation of this chapter is committed, continued, or permitted by the person, and the person shall be punishable therefor as provided in this division.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 591

An act to amend Sections 74783 and 74784 of, and to add Section 70141.12 to, the Government Code, relating to courts.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 70141.12 is added to the Government Code, to read:

70141.12. (a) In Stanislaus County, the judges of the superior court, by majority vote, may appoint two court commissioners to replace two existing referees appointed pursuant to Section 247 of the Welfare and Institutions Code. The superior court may provide that the commissioners, in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court referee as specified in Section 247 of the Welfare and Institutions Code.

(b) Any commissioner appointed pursuant to this section shall have been admitted to practice law in California for not less than five years, shall hold office at the pleasure of the superior court, and shall not engage in the private practice of law.

(c) The salary of a commissioner for all duties performed pursuant to this section shall be equal to 75 percent of the annual salary of a judge of a superior court. The commissioner shall receive vacation, sick leave, and fringe benefits indentical to those provided Stanislaus County management employees.

SEC. 2. Section 74783 of the Government Code is amended to read:

74783. There shall be one clerk-administrator who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The clerk-administrator shall be on salary range 69A. The clerk may appoint, with the approval of the judges of the court, all of the following:

(a) One assistant clerk-administrator on range 61D.
(b) Nine courtroom clerks on range 54C.
(c) Five senior legal clerks on range 53C.
(d) One accounting technician on range 52C.
(e) Two legal clerk III's on range 53C.
(f) One account clerk III on range 50C.
(g) One department head secretary on range 53A.
(h) Seven legal clerk II's on range 49C.
(i) Twenty-six legal clerk I's on range 47C.
(j) One supervising courtroom clerk on range 56C.

SEC. 3. Section 74784 of the Government Code is amended to

read:

74784. There shall be one marshal who shall be appointed by and serve at the pleasure of a majority of the judges of the court, and who shall be on salary range 66C. The marshal may appoint, with the approval of the judges of the court all of the following:

(a) One assistant marshal on range 63D.

(b) Fourteen deputy marshals on range 58B.

(c) One supervising civil process technician on range 51C.

(d) One civil process technician on range 49C.

(e) Three civil process clerks on range 47C.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 592

An act to amend Section 25814 of the Health and Safety Code, relating to low-level waste.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 25814 of the Health and Safety Code is amended to read:

25814. The director shall appoint, in consultation with the Chairperson of the Senate Committee on Rules and the Speaker of the Assembly, an advisory committee to advise the department regarding methods for minimizing the environmental impact of low-level wastes, criteria for siting low-level waste treatment and burial facilities, alternatives to land burial of low-level waste, and waste classification schemes.

The committee shall include representatives from the field of medicine, and from research, industrial, environmental, and public health organizations, who have demonstrated expertise and experience with radioactive materials, waste management, the health effects of exposure to low-level waste, or the environmental impact associated with the storage of low-level waste. The director shall appoint to the advisory committee the director of environmental health of the county where a low-level waste disposal facility is sited.

CHAPTER 593

An act to add Section 13519.2 to the Penal Code, relating to the Department of Justice.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 13519.2 is added to the Penal Code, to read:

13519.2. (a) The commission shall, on or before July 1, 1990, include in the basic training course for law enforcement officers, adequate instruction in the handling of persons with developmental disabilities or mental illness, or both. Officers who complete the basic training prior to July 1, 1990, shall participate in supplementary training on this topic. This supplementary training shall be completed on or before July 1, 1992. Further training courses to update this instruction shall be established, as deemed necessary by the commission.

(b) The course of instruction relating to the handling of developmentally disabled or mentally ill persons shall be developed by the commission in consultation with appropriate groups and individuals having an interest and expertise in this area. In addition to providing instruction on the handling of these persons, the course shall also include information on the cause and nature of developmental disabilities and mental illness, as well as the community resources available to serve these persons.

CHAPTER 594

An act to amend Section 7371 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 7371 of the Business and Professions Code is amended to read:

7371. The examination of applicants for a license in any of the branches or practices of cosmetology shall include both a practical demonstration and a test and shall embrace the subjects concerning the particular branch or branches, practice or practices for which a certificate of registration and license is applied.

The examination shall not be confined to any particular system or method. It shall be consistent in both practical and technical

requirements, and of sufficient thoroughness to satisfy the board as to the applicant's skill in, and knowledge of, the practice of the occupation or occupations for which a license is sought.

In the conduct of examinations, practical demonstrations shall prevail over written tests. A greater number of credits shall be allowed on practical demonstrations than on written tests.

All written instructions given during any examination shall be available in Spanish and Vietnamese to applicants.

CHAPTER 595

An act to add Section 1280.5 to the Health and Safety Code, relating to health facilities.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1280.5 is added to the Health and Safety Code, to read:

1280.5. The state department shall accept, consider, and resolve written appeals by a licensee or health facility administrator of findings made upon the inspection of a health facility.

CHAPTER 596

An act to amend Section 1704.5 of the Health and Safety Code, relating to health.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1704.5 of the Health and Safety Code is amended to read:

1704.5. The failure of a physician and surgeon to inform a patient by means of a standardized written summary, as developed by the department on the recommendation of the Cancer Advisory Council, in layman's language and in a language understood by the patient of alternative efficacious methods of treatment which may be medically viable, including surgical, radiological, or chemotherapeutic treatments or combinations thereof, when the patient is being treated for any form of breast cancer constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and

Professions Code.

A standardized written summary in layman's language and in a language understood by the patient, to be developed by the department on the recommendation of the Cancer Advisory Council and printed and made available by the Board of Medical Quality Assurance to physicians and surgeons, informing the patient of the advantages, disadvantages, risks and descriptions of the procedures with regard to medically viable and efficacious alternative methods of treatment, which is given to the patient shall constitute compliance with the requirements of this section.

Prior to performance of a biopsy, the physician and surgeon shall note on the patient's chart that he or she has given the patient the written summary required by this section.

CHAPTER 597

An act to amend Section 9659 of the Welfare and Institutions Code, relating to respite care.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 9659 of the Welfare and Institutions Code is amended to read:

9659. This chapter shall remain in effect until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 598

An act to amend Sections 25104, 25146, 25232, and 25530 of the Corporations Code, relating to securities.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 25104 of the Corporations Code is amended to read:

25104. The following transactions are exempted from the provisions of Section 25130:

(a) Any offer or sale of a security by the bona fide owner thereof for his or her own account if the sale (1) is not accompanied by the

publication of any advertisement and (2) is not effected by or through a broker-dealer in a public offering.

(b) Any offer or sale effected by or through a licensed broker-dealer pursuant to an unsolicited order or offer to buy. For the purpose of this subdivision, an inquiry regarding a written bid for a security or a written solicitation of an offer to sell a security made by another broker-dealer within the previous 60 days shall not be considered the solicitation of an order or offer to buy.

(c) Any offer or sale to a bank, savings and loan association, trust company, insurance company, investment company registered under the Investment Company Act of 1940, pension or profit-sharing trust (other than a pension or profit-sharing trust of the issuer, a self-employed individual retirement plan, or individual retirement account), or such other institutional investor or governmental agency or instrumentality as the commissioner may designate by rule, whether the purchaser is acting for itself or as trustee; provided the purchaser represents that it is purchasing for its own account (or for the trust account) for investment and not with a view to or for sale in connection with any distribution of the security.

(d) Any transaction or agreement between a person on whose behalf an offering is made and an underwriter or among underwriters, if the sale of the securities is exempt from qualification at the time of or qualified prior to distribution in this state, if any.

(e) Any offer or sale of any security by or for the account of a bona fide secured party selling the security in the ordinary course of business to liquidate a bona fide debt.

(f) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(g) Any offer (but not a sale) of a security for which a registration statement has been filed under the Securities Act of 1933 but has not yet become effective, if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under Section 8 of that act and no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this division.

(h) Any offer or sale of a security if a qualification under Chapter 2 (commencing with Section 25110) of this part for any securities of the same class has become effective within 18 months, or longer period as the commissioner may order provided that each consecutive order shall be for no more than six months, prior to the offer or sale or if a qualification under Chapter 3 (commencing with Section 25120) or Chapter 4 (commencing with Section 25130) of this part for any securities of the same class has become effective within 12 months prior to that offer or sale, provided no order under Section 25140 or subdivision (a) of Section 25143 is in effect under this division with respect to the qualification, and, provided further, that this exemption does not apply to securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to an

exemption under Regulation A under that act if the aggregate offering price of the securities offered under such exemption exceeds fifty thousand dollars ($50,000). The commissioner may, by rule or order, withhold this exemption with respect to securities qualified only pursuant to a limited offering qualification.

SEC. 2. Section 25146 of the Corporations Code is amended to read:

25146. For a period of 18 months after the qualification is effective, the commissioner may by rule or order require an issuer who has filed an application to file reports not more often than semiannually for the purpose of keeping reasonably current the information contained in the application; provided, that the commissioner may not require the filing of any such report after completion of the offering if a nonissuer transaction in the security would be entitled to exemption under Section 25101.

SEC. 3. Section 25232 of the Corporations Code is amended to read:

25232. The commissioner may, after appropriate notice and opportunity for hearing, by order censure, deny a certificate to, or suspend for a period not exceeding 12 months or revoke the certificate of, an investment adviser, if the commissioner finds that the censure, denial, suspension, or revocation is in the public interest and that the investment adviser, whether prior or subsequent to becoming such, or any partner, officer or director thereof or any person performing similar functions or any person directly or indirectly controlling the investment adviser, whether prior or subsequent to becoming such, or any employee of the investment adviser while so employed:

(a) Has willfully made or caused to be made in any application for a certificate or any report filed with the commissioner under this division, or in any proceeding before the commissioner, any statement which was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, or has willfully omitted to state in the application or report any material fact which is required to be stated therein; or

(b) Has been either (1) convicted of or has pled nolo contendere to any felony or misdemeanor, or (2) held liable in a civil action by final judgment of a court based upon conduct showing moral turpitude, and the commissioner finds that the felony, misdemeanor or civil action (i) involved the purchase or sale of any security, (ii) arose out of the conduct of the business of a broker-dealer or investment adviser, (iii) involved theft, or (iv) involved the violation of Section 1341, 1342 or 1343 of Title 18 of the United States Code; or

(c) Is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from acting as an investment adviser, underwriter or broker-dealer or as an affiliated person or employee of any investment company, bank, or insurance company, or from engaging in or continuing any conduct or practice in connection with that activity, or in connection with the purchase

or sale of any security; or

(d) Is subject to any currently effective order of the Securities and Exchange Commission or the securities administrator of any other state revoking or suspending his or her registration as an investment adviser, or investment adviser representatives, or as a broker or dealer or agent, or is subject to any currently effective order of any national securities association or national securities exchange (as defined in the Securities Exchange Act of 1934) suspending or expelling him or her from membership in that association or exchange; or

(e) Has willfully violated any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or Title 4 (commencing with Section 25000) of this code, or of any rule or regulation under those statutes; or

(f) Has aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any statute or rule or regulation referred to in subdivision (e).

SEC. 4. Section 25530 of the Corporations Code is amended to read:

25530. (a) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this division or any rule or order hereunder, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this law or any rule or order hereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted and a receiver, monitor, conservator, or other designated fiduciary or officer of the court may be appointed for the defendant or the defendant's assets, or any other ancillary relief may be granted as appropriate.

A receiver, monitor, conservator, or other designated fiduciary or officer of the court appointed by the superior court pursuant to this section may, with the approval of the court, exercise any or all of the powers of the defendant's officers, directors, partners, trustees or persons who exercise similar powers and perform similar duties, including the filing of a petition for bankruptcy. No action at law or in equity may be maintained by any party against the commissioner, or a receiver, monitor, conservator, or other designated fiduciary or officer of the court, by reason of their exercising these powers or performing these duties pursuant to the order of, or with the approval of, the superior court.

(b) If the commissioner determines it is in the public interest, the commissioner may include in any action authorized by subdivision (a) a claim for ancillary relief, including but not limited to, a claim for restitution or disgorgement or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action, and the court shall have jurisdiction to award additional relief.

CHAPTER 599

An act to amend Section 23175 of the Vehicle Code, relating to driving offenses.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 23175 of the Vehicle Code is amended to read:

23175. If any person is convicted of a violation of Section 23152 and the offense occurred within seven years of three or more separate violations of Section 23103 as specified in Section 23103.5 which occurred on or after January 1, 1982, 23152, or 23153, or any combination thereof, which resulted in convictions, that person shall be punished by imprisonment in the state prison, or by confinement in the county jail for not less than 180 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than one thousand dollars ($1,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (7) of subdivision (a) of Section 13352.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 600

An act to amend Sections 5604, 5680, and 5681 of the Business and Professions Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 5604 of the Business and Professions Code is amended to read:

5604. The fees prescribed by this chapter for architect applicants or architect license holders shall be fixed by the board as follows:

(a) The application fee for reviewing a candidate's eligibility to take any section of the examination at not to exceed one hundred

dollars ($100).

(b) The fee for any section of the examination at not to exceed one hundred dollars ($100).

(c) The fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

(d) The fee for an application for reciprocity at not to exceed one hundred dollars ($100).

(e) The fee for a duplicate license at not to exceed twenty-five dollars ($25).

(f) The renewal fee at not to exceed two hundred dollars ($200).

(g) The delinquency fee at not to exceed 50 percent of the renewal fee.

SEC. 2. Section 5680 of the Business and Professions Code is amended to read:

5680. Certificates issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original certificate shall be set by the board in a manner to best distribute renewal procedures throughout each year. To renew an unexpired certificate, the certificate holder shall, on or before the expiration date of the certificate, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 3. Section 5681 of the Business and Professions Code is amended to read:

5681. The amount of fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for examination shall be fixed by the board in an amount not to exceed three hundred twenty-five dollars ($325).

(b) The fee for an original certificate shall be fixed by the board in an amount not to exceed three hundred dollars ($300), except that, if the certificate is issued less than one year before the date on which it will expire, then the fee shall equal 50 percent of the fee fixed by the board for an original certificate. The board may, by appropriate regulation, provide for the waiver or refund of the initial certificate fee where the certificate is issued less than 45 days before the date on which it will expire.

(c) The fee for a temporary certificate shall be fixed by the board in an amount not to exceed fifty dollars ($50).

(d) The fee for a duplicate certificate shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(e) The renewal fee shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed three

hundred dollars ($300).

(f) The penalty for failure to notify the board of a change of address within 30 days from an actual change in address shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

(g) The delinquency fee shall be 50 percent of the renewal fee for the certificate in effect on the date of the renewal of the certificate, but not less than twenty-five dollars ($25) nor more than one hundred fifty dollars ($150).

(h) The fee for a branch office shall be fixed by the board in an amount not to exceed twenty-five dollars ($25).

CHAPTER 601

An act to amend Section 14105 of the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 14105 of the Welfare and Institutions Code is amended to read:

14105. (a) The director shall prescribe the policies to be followed in the administration of this chapter, may limit the rates of payment for health care services, and shall adopt such rules and regulations as are necessary for carrying out, not inconsistent with, the provisions thereof.

Such policies and regulations shall include rates for payment for services not rendered under a contract pursuant to Chapter 8 (commencing with Section 14200). In order to implement expeditiously the budgeting decisions of the Legislature, the director shall, to the extent permitted by federal law, adopt regulations setting rates which reflect such decisions within one month after the enactment of the Budget Act and of any other appropriation which changes the level of funding for Medi-Cal services. The proposed regulations shall be submitted to the Department of Finance no later than five days prior to the date of adoption. With the written approval of the Department of Finance, the director shall adopt such regulations as emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Part 1, Division 3, Title 2 of the Government Code). For purposes of that act, the adoption of such regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety or general welfare.

(b) Insofar as practical, consistent with the efficient and

economical administration of this part, the department shall afford recipients of public assistance free choice of arrangements under which they shall receive health care benefits.

(c) If, in the judgment of the director, the actions taken by the director under subdivision (c) of Section 14120 will not be sufficient to operate the Medi-Cal program within the limits of appropriated funds, he may limit the scope and kinds of health care services, except for minimum coverage as defined in Section 14056, available to persons who are not eligible under Section 14005.1. When and if necessary, that action shall be taken by the director in ways consistent with the requirements of the federal Social Security Act.

(d) The director shall adopt regulations implementing regulatory changes required to initially implement, and annually update, the United States Health Care Financing Administration's common procedure coding system as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall become effective immediately upon filing with the Secretary of State.

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

In order to maintain the fiscal integrity and the quality of services under the Medi-Cal program, it is necessary that this act go into immediate effect.

CHAPTER 602

An act to amend Section 22857 of, to add Sections 20144 and 21209 to, and to repeal Section 22857.1 of, the Government Code, relating to public employees.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 20144 is added to the Government Code, to read:

20144. The board shall include in each member benefit booklet a specific illustration of the benefits available under optional settlement No. 4.

SEC. 2. Section 21209 is added to the Government Code, to read:

21209. An application for a refund of the member's accumulated

contributions or an election of optional settlement and beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, that either:

(a) The member is not married.

(b) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(c) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(d) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(e) The member and the current spouse have executed a marriage settlement agreement pursuant to Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil Code which makes the community property law inapplicable to the marriage.

No retirement or refund payment shall be made when there is no spousal signature or when the member has made no declaration under subdivisions (a) to (e), inclusive.

The sole purpose of this section is to notify the current spouse of the selection of specified benefits made by a member.

This section shall become operative on January 1, 1990.

SEC. 3. Section 22857 of the Government Code is amended to read:

22857. A contracting agency including a school district, county board of education, personnel commission of a school district, or a county superintendent of schools which has elected to be subject to this part:

(a) Shall by resolution establish the employer contribution for employees and the employer contribution for annuitants. The resolution shall be filed with the board and the contribution shall be effective at such time as is provided in board regulations.

(b) May, notwithstanding Section 22825, establish a lesser monthly employer contribution for annuitants than for employees, provided that the monthly contribution for annuitants shall be annually increased by an amount not less than 5 percent of the monthly employee contribution for employees, until such time as the employer contribution for annuitants equals the employer contribution paid for employees.

This subdivision shall only apply to agencies who first become subject to this part on or after January 1, 1986.

SEC. 4. Section 22857.1 of the Government Code is repealed.

CHAPTER 603

An act to amend Section 42239 of the Education Code, relating to education.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 42239 of the Education Code is amended to read:

42239. For the 1984–85 fiscal year and each fiscal year thereafter, the county superintendent shall compute an amount for each school district's summer school attendance in the following manner:

(a) Divide the amount received on account of average daily attendance pursuant to Section 42238.6 in the 1983–84 fiscal year by the 1983–84 fiscal year hours of attendance. This amount shall be increased annually by the percentage increase granted to school districts for base revenue limit increases.

(b) Multiply the amount computed in subdivision (a) by the lesser of the 1983–84 fiscal year hours of summer school attendance or the actual fiscal year hours of summer school attendance computed pursuant to paragraph (1) of subdivision (d).

(c) If the fiscal year hours of summer school attendance computed pursuant to subdivision (d) exceed the hours of summer school attendance specified in subdivision (b), multiply the increased hours by one dollar and fifty cents ($1.50). This amount shall be increased annually by the percentage increase granted to school districts for base revenue limit increases.

(d) Commencing in the 1984–85 fiscal year, summer school attendance shall be the sum of paragraphs (1) and (2):

(1) The hours of attendance in the categories identified in Section 42238.6 as it read in the 1983–84 fiscal year.

(2) Any summer school hours of attendance for mathematics, science, English as a second language, or other core academic areas designated by the Superintendent of Public Instruction.

(e) (1) A school district's maximum entitlement for reimbursement for pupil attendance in summer school programs offered pursuant to paragraph (2) of subdivision (d) shall be an amount equal to 5 percent of the district's total enrollment for the prior fiscal year times 120 hours, times the hourly rate for the current fiscal year determined pursuant to subdivision (c).

(2) A district may enroll more than 5 percent of its students, or may enroll students for more than 120 hours per year in summer school programs offered pursuant to paragraph (2) of subdivision (d), as long as the total state apportionment to the district for those programs does not exceed the amount computed pursuant to paragraph (1). A district shall earn its entitlement at the per pupil

hourly rate pursuant to subdivision (c).

(f) Notwithstanding any other provision of law, classes may be convened pursuant to this section at the hours and for the length of time during the schoolday, and at the period and for the length of time during the school year, as may be determined by the governing board of the school district.

CHAPTER 604

An act to amend Section 22810 of, and to add Section 22954 to, the Government Code, relating to public employees.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 22810 of the Government Code is amended to read:

22810. An employee or annuitant may, under eligibility rules as the board may by regulation prescribe, enroll in an approved health benefits plan, either as an individual or for self and family, except that an employee of a contracting agency, or an annuitant who retired while an employee or is the beneficiary of an employee, may enroll only in a health benefits plan for which the board has contracted. With respect to state officers and employees, the regulations shall provide that every employee or annuitant enrolled in a health benefits plan shall be enrolled in a major medical plan or shall provide for inclusion of major medical benefits in health benefit plans. The regulations may provide for the exclusion of employees on the basis of the nature and type of their employment or conditions pertaining thereto, but not limited to, short-term appointments, seasonal or intermittent employment, and employment of a like nature, but no employee or group of employees shall be excluded solely on the basis of the hazardous nature of the employment. Any enrollment shall authorize the deduction of the contributions required under this part from the employee's or annuitant's salary or retirement allowance.

Any annuitant who satisfies the requirement to retire within 120 days of separation as specified in subdivision (e) of Section 22754 and who, at the time he or she became an annuitant was enrolled in a health benefits plan under state or federal provisions, may continue his or her enrollment as provided by regulations of the board, without discrimination as to premium rates or benefit coverage. Any permanent intermittent employee and any employee who works less than full time may continue his or her enrollment while retired from state employment if (1) he or she was enrolled prior to separation from state employment and (2) he or she lost eligibility prior to

separation but continued his or her coverage under the federal law.

Any annuitant who becomes entitled to the survivor allowance under Section 21382 at age 62 and who was enrolled in a health benefits plan at the death of the member on whose account the survivor allowance is payable may enroll in a health benefits plan without discrimination as to premium rates or benefit coverage.

In the case of the death of an employee after application has been filed for coverage of family members but prior to the effective date of coverage, family members shall be deemed to have been covered on the date of the death of the employee, and if one of the family members is an annuitant he or she shall be enrolled as if the coverage applied for were continued without discrimination as to premium rates or benefit coverage.

The board shall, by rule and regulation, make whatever provisions it deems necessary to eliminate or minimize the impact of adverse selection which would affect any plans approved or contracted for, because of enrollment of annuitants.

SEC. 2. Section 22954 is added to the Government Code, to read:

22954. Any annuitant who, at the time he or she became an annuitant, was enrolled in a dental care plan under state or federal provisions, may continue his or her enrollment, without discrimination as to premium rates or benefit coverage.

CHAPTER 605

An act to amend Section 21107.7 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 21107.7 of the Vehicle Code is amended to read:

21107.7. (a) Any city or county may, by ordinance or resolution, find and declare that there are privately owned and maintained roads as described in the ordinance or resolution within the city or county that are not generally held open for use of the public for purposes of vehicular travel but, by reason of their proximity to or connection with highways, the interests of any residents residing along the roads and the motoring public will best be served by application of the provisions of this code to those roads. No ordinance or resolution shall be enacted unless there is first filed with the city or county a petition requesting it by a majority of the owners of any privately owned and maintained road, or by at least a majority of the board of directors of a common interest development, as defined by Section 1351 of the Civil Code, that is responsible for maintaining the

road, and without a public hearing thereon and 10 days' prior written notice to all owners of the road or all of the owners in the development. Upon enactment of the ordinance or resolution, the provisions of this code shall apply to the privately owned and maintained road if appropriate signs are erected at the entrance to the road of the size, shape, and color as to be readily legible during daylight hours from a distance of 100 feet, to the effect that the road is subject to the provisions of this code. The city or county may impose reasonable conditions and may authorize the owners, or board of directors of the common interest development, to erect traffic signs, signals, markings, and devices which conform to the uniform standards and specifications adopted by the Department of Transportation.

(b) The department shall not be required to provide patrol or enforce any provisions of this code on any privately owned and maintained road subjected to the provisions of this code under this section, except those provisions applicable to private property other than by action under this section.

(c) As used in this section, "privately owned and maintained roads" includes roads owned and maintained by a city, county or district that are not dedicated to use by the public or are not generally held open for use of the public for purposes of vehicular travel.

CHAPTER 606

An act to add Article 4 (commencing with Section 14081) to Chapter 3 of Division 7 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. The Legislature finds and declares the following:

(a) Soil fumigation is a valuable agricultural cultivation practice which is necessary for control of soil-borne pests.

(b) Methyl bromide and chloropicrin soil fumigants are volatile gases that have escaped from target fields on occasion and caused discomfort, health risks, and evacuations of nearby residents.

(c) Every effort must be made to safeguard the general public from adverse effects associated with the use of agricultural fumigants.

(d) The Department of Food and Agriculture has created the Methyl Bromide and Chloropicrin Ad Hoc Committee to evaluate new fumigation technology and to evaluate the existing regulatory control structure and promulgate more comprehensive regulations

to protect the health, safety, and welfare of the general public.

SEC. 2. Article 4 (commencing with Section 14081) is added to Chapter 3 of Division 7 of the Food and Agricultural Code, to read:

Article 4. Methyl Bromide and Chloropicrin

14081. The director, after investigation and hearing, shall adopt regulations by April 1, 1989, which govern the use of methyl bromide and chloropicrin as field fumigants.

14082. The director may prescribe the time when, and the conditions under which, methyl bromide and chloropicrin may be used in different areas of the state.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 607

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

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988]

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

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

66909.5. (a) This chapter shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

(b) On or before January 1, 1991, the conservancy shall report to the Legislature, with respect to any property which is subject to the immunity provided by this chapter, the following:

(1) The nature and extent of any injury sustained by any person on that property since September 17, 1984.

(2) Any personal injury or wrongful death litigation brought by, on behalf of, or against, any public entity since September 17, 1984, arising from occurrences on that property.

CHAPTER 608

An act to add Section 1300.4 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1300.4 is added to the Welfare and Institutions Code, to read:

1300.4. The Rendition Amendment to the Interstate Compact on Juveniles is hereby enacted into law and entered into by this state with all other states legally joining therein in the law substantially as follows:

(a) This amendment shall provide additional remedies and shall be binding only as among and between those party states which specifically execute the same.

(b) All provisions and procedures of Article V and VI of the Interstate Compact on Juveniles shall be construed to apply to any juvenile charged with being a delinquent by reason of a violation of any criminal law. Any juvenile, charged with being a delinquent by reason of violating any criminal law, shall be returned to the requesting state upon a requisition to the state where the juvenile may be found. A petition in such case shall be filed in a court of competent jurisdiction in the requesting state where the violation of criminal law is alleged to have been committed. The petition may be filed regardless of whether the juvenile has left the state before or after the filing of the petition. The requisition described in Article V of the compact shall be forwarded by the judge of the court in which the petition has been filed.

SEC. 2. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 609

An act to amend Section 253.3 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 253.3 of the Streets and Highways Code is amended to read:

253.3. The California freeway and expressway system shall also include:

Route 22 from:

(a) Studebaker Road in Long Beach to Route 405.

(b) Route 405 to Route 55 near Orange.

Route 23 from:

(a) Route 101 in Thousand Oaks to Route 118.

(b) Route 118 to Route 126 near Fillmore.

Route 25 from:

(a) Route 180 near Paicines to Route 156 in Hollister.

(b) Route 156 in Hollister to Route 101 near Gilroy.

Route 26 from Route 99 near Stockton to Route 12.

Route 29 from:

(a) Route 80 near Vallejo to Oak Knoll Avenue north of the City of Napa.

(b) The Napa-Lake county line to Route 20.

Route 33 from:

(a) Route 101 near Ventura to Route 150.

(b) Route 150 to Route 166 near Maricopa.

(c) Route 152 west of Los Banos to Route 5 near Santa Nella.

Route 35 from Route 280 to Route 1 near Daly City.

Route 36 from:

(a) Route 5 at Red Bluff to Route 395.

(b) Route 139 north of Susanville to Route 395 near Termo.

Route 38 from Route 10 near Redlands to Route 18 near Baldwin Lake.

Route 39 from Route 5 to Route 210.

Route 41 from:

(a) Route 1 near Morro Bay to Route 101 near Atascadero.

(b) Route 46 to Route 99 near Fresno.

(c) Route 99 near Fresno to Route 180.

(d) Route 180 to Yosemite National Park.

Route 43 from Route 5 to Route 99 near Selma.

Route 45 from Route 20 near Colusa to Route 32 near Hamilton City.

CHAPTER 610

An act to amend Section 1031 of the Government Code, and to repeal Section 2050 and Article 8 (commencing with Section 2049) of Chapter 1 of Title 1 of Part 3 of the Penal Code, relating to corrections.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988]

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

SECTION 1. Section 1031 of the Government Code is amended to read:

1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:

(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship.

(b) Be at least 18 years of age.

(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose any criminal record.

(d) Be of good moral character, as determined by a thorough background investigation.

(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, or have attained a two-year or four-year degree from a college or university accredited by the Western Association of Colleges and Universities; provided that this subdivision shall not apply to any public officer or employee who was employed, prior to the effective date of the amendment of this section made at the 1971 Regular Session of the Legislature, in any position declared by law prior to the effective date of such amendment to be peace officer positions.

(f) Be found to be free from any physical, emotional, or mental condition which might adversely affect the exercise of the powers of a peace officer. Physical condition shall be evaluated by a licensed physician and surgeon. Emotional and mental condition shall be evaluated by a licensed physician and surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

This section shall not be construed to preclude the adoption of additional or higher standards, including age.

SEC. 2. Article 8 (commencing with Section 2049) of Chapter 1 of Title 1 of Part 3 of the Penal Code is repealed.

SEC. 3. Section 2050 of the Penal Code is repealed.

CHAPTER 611

An act to amend Section 5099.12 of the Public Resources Code, relating to parks and recreation.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 5099.12 of the Public Resources Code is amended to read:

5099.12. Of the annual apportionment of funds received by the director pursuant to this chapter, 60 percent shall be allocated for local governmental agency projects and 40 percent for state agency projects. The state agency share shall be disbursed to the following state agencies in the following percentages: 55 percent to the Department of Parks and Recreation; 35 percent to the Wildlife Conservation Board or the Department of Fish and Game; 5 percent to the Department of Water Resources; and 5 percent to the Department of Boating and Waterways. The State Coastal Conservancy established pursuant to Section 31100 is eligible to compete for grants of funds for projects of an outdoor recreational nature from the 6 percent contingency fund established by this section.

If either the state or local governmental agencies are unable to utilize their allocation of funds, the director shall allocate the uncommitted funds to those state or local governmental agencies that are in position to take advantage of the funds during the year in which they are allocated. The 60-percent allocation for local governmental agency projects and the 40-percent allocation to state agency projects shall not be computed until the costs of maintaining and keeping up to date the plan required pursuant to Section 5099.2 and an additional 6 percent for deposit to a contingency fund have been deducted.

CHAPTER 612

An act to repeal and add Section 1761 of the Welfare and Institutions Code, relating to the Department of the Youth Authority.

[Approved by Governor August 25, 1988 Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 1761 of the Welfare and Institutions Code is

repealed.

SEC. 2. Section 1761 is added to the Welfare and Institutions Code, to read:

1761. The Youth Authority shall establish policies for a background assessment of all persons committed to the Youth Authority in order to supplement the case history provided by the county which committed the person to it.

CHAPTER 613

An act to add Sections 31404 and 40000.18 to the Vehicle Code, relating to vehicles.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 26, 1988.]

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

SECTION 1. Section 31404 is added to the Vehicle Code, to read:

31404. Any person who operates a farm labor vehicle in violation of subdivision (b) of Section 31401 or Section 31402 or 31403 is guilty of a misdemeanor. When a person has been convicted of willfully violating those provisions, the person shall, in addition, be fined not less than five hundred dollars ($500) for each violation, and no part of the fine may be suspended. As used in this section, "willfully" has the same meaning as prescribed in Section 7 of the Penal Code.

SEC. 2. Section 40000.18 is added to the Vehicle Code, to read:

40000.18. A violation of subdivision (b) of Section 31401 or Section 31402 or 31403, relating to farm labor vehicles, is a misdemeanor and not an infraction.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 614

An act to amend Section 58552 of, and to add Section 58564 to, the Food and Agricultural Code, relating to marketing.

[Approved by Governor August 25, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 58552 of the Food and Agricultural Code is amended to read:

58552. (a) The Legislature finds and declares that it is the policy of this state to actively encourage and promote the sale of agricultural products of California in foreign markets and to assist farmers, processors, distributors, and exporters in meeting world market needs.

(b) The Legislature further finds and declares, as being consistent with the Thurman Agricultural Policy Act (Chapter 6 (commencing with Section 801) of Part 1 of Division 1), both of the following:

(1) The harvest from approximately one out of every four acres of California cropland is now sold in foreign markets, thus the state's agricultural economy is dependent upon international trade.

(2) It is in the public's best interest to assist California agriculture in market development for agricultural products, and to expand world trade in these products to maximize growth in the state's economy.

SEC. 2. Section 58564 is added to the Food and Agricultural Code, to read:

58564. The department shall, as one of its functions, provide assistance to persons from foreign countries who desire to purchase agricultural products produced in this state. That assistance shall include advice on establishing business contacts that will meet the needs of the prospective purchaser.

CHAPTER 615

An act to amend Section 13190.3 of, and to add Section 13143.7 to, the Health and Safety Code, relating to fire safety.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 13143.7 is added to the Health and Safety Code, to read:

13143.7. (a) The Legislature hereby finds and declares that the

installation of automatic fire sprinkler systems or other fire suppression or intrusion detection systems in schools might save lives and protect school property from losses due to arson fires, and that it is in the public interest to study the costs of installing fire sprinklers or other fire suppression or intrusion detection systems in schools, and to compare the costs of the sprinklers or other fire suppression or intrusion detection systems with benefits derived from their action in school fires.

(b) The State Fire Marshal shall, subject to funding of twenty-five thousand dollars ($25,000) from private sources, study all pertinent laws and local building regulations regarding the installation and maintenance of systems including, but not limited to, automatic sprinkler systems, or fire protection systems that the State Fire Marshal determines are equivalent to automatic sprinkler systems, in school buildings. The State Fire Marshal shall give consideration to the potential cost of installing automatic sprinkler systems and any other system reviewed by the State Fire Marshal, compared with the potential protection of life and cost savings due to the protection of property, within school facilities.

(c) On or before January 1, 1990, subject to funding of twenty-five thousand dollars ($25,000) from private sources, the State Fire Marshal shall report findings and recommendations made pursuant to this section to the appropriate policy and fiscal committees of the Legislature.

(d) "School building," as used in this section, includes any building of a public or private elementary or secondary school, college or university, community college, or state university, or the University of California with a capacity of 50 or more persons.

(e) Funding shall be sought from private sources, for the implementation of this section.

SEC. 2. Section 13190.3 of the Health and Safety Code is amended to read:

13190.3. Any portable fire extinguisher that is required to be installed by any statute or ordinance shall be maintained in accordance with the regulations adopted pursuant to Section 13160.

(a) The owner or occupant of a property in which fire extinguishers are located shall be responsible for the inspection, maintenance, and recharging of the fire extinguishers.

(b) Maintenance, servicing, and recharging shall be performed by concerns licensed by the State Fire Marshal having available the appropriate servicing manual, the proper types of tools, recharge materials, lubricants, and manufacturer's recommended replacement parts or parts of equal quality.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 616

An act to amend Section 15373.5 of the Government Code, relating to rural economic development.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 15373.5 of the Government Code is amended to read:

15373.5. (a) The department shall review county applications to ensure that proposals are consistent with statewide promotion of California's rural areas, and conform to eligible activities and objectives of this article. The department shall make a decision on awarding the grant within 90 days after the county submits the application to the department, and shall give written approval of the proposal of the county or counties prior to awarding of a grant.

(b) Counties shall use the grant funds in concert with local economic development and business and tourism promotion organizations to perform the activities of the grant agreement.

(c) Eligible counties shall be encouraged to recognize the benefits of a multicounty regional promotional program and to prepare a joint application consistent with this article. Counties shall also be encouraged to use the funds for multiyear projects.

(d) Eligible uses of grant funds shall be all of the following:

(1) Promotion and advertising of economic development and tourism.

(2) Staffing and operating costs of local economic development programs.

(3) Data collection, site inventories, and brochure development and printing.

(4) Market studies, project feasibility studies, and local economic development strategic plans.

(5) Other direct job creation and retention activities.

(e) Counties shall not use more than 15 percent of the grant for administrative costs.

(f) Grant funds shall not be expended for any of the following:

(1) Any promotional effort or activity which is derogatory or detrimental to any other area of the state.

(2) Any activity which would effect the relocation of any substantial operations of a company from one area of the state to another, or in the abandonment of any substantial operations of a company within other areas of the state.

(g) Each county shall certify that it will not use the grant funds to supplant any of its noneconomic development activities.

(h) Each grant recipient shall submit to the department a report of the grant expenditures every year during the period of the grant

and an independent financial audit of all grant expenditures within 90 days after the closure of the grant.

CHAPTER 617

An act to amend Section 25523 of the Public Resources Code, relating to energy resources.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 25523 of the Public Resources Code is amended to read:

25523. The commission shall prepare a written decision after the public hearing on an application, which includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and assure public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the commission specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the commission pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other relevant local, regional, state, and federal standards, ordinances, or laws. If the commission finds that there is noncompliance with any state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to

correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the commission shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The commission may not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant prior to the commission's licensing of the project, to the extent that the proposed facility requires emission offsets to comply with local, regional, state, or federal air quality standards.

(e) Provision for restoring the site as necessary to protect the environment, if the commission denies approval of the application.

(f) Findings regarding the conformity of the proposed facility with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305.

(g) In the case of a geothermal site and related facility, findings on whether there are sufficient commercial quantities of geothermal resources available to operate the proposed facility for its planned life.

(h) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(i) In the case of a facility other than a resource recovery facility subject to subdivision (h), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

CHAPTER 618

An act to amend Section 54985 of the Government Code, relating to fees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 54985 of the Government Code is amended to read:

54985. (a) Notwithstanding any other provision of law which prescribes an amount or otherwise limits the amount of a fee or charge which may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have the authority to increase or decrease any such fee or charge, which is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs which may be reflected in the cost of providing any product or service or the cost of enforcing any regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.

(b) If any person disputes whether a fee or charge levied pursuant to subdivision (a) is reasonable, the board of supervisors may request the county auditor to conduct a study and to determine whether such fee or charge is reasonable.

Nothing in this subdivision shall be construed to mean that the county shall not continue to be subject to fee review procedures required by Article XIII B of the California Constitution.

(c) This chapter shall not apply to any of the following:

(1) Any fee charged or collected by a court clerk pursuant to Section 26820.4, 26823, 26824, 26826, 26827, 26827.4, 26830, 72054, 72055, 72056, 72059, 72060, or 72061 of the Government Code or Section 10554 of the Health and Safety Code, and any other fee or charge that may be assessed, charged, collected, or levied, pursuant to law for filing judicial documents or for other judicial functions.

(2) Any fees charged or collected pursuant to Chapter 2 (commencing with Section 6100) of Division 7 of Title 1.

(3) Any standby or availability assessment or charge.

(4) Any fee charged or collected by a county agricultural commissioner.

(5) Any fee charged or collected pursuant to Article 2.1 (commencing with Section 12240) of Chapter 2 of Division 5 of the Business and Professions Code.

(6) Any fee charged or collected by a county recorder or local registrar for filing, recording, or indexing any document, performing any service, issuing any certificate, or providing a copy of any document pursuant to Section 2103 of the Code of Civil Procedure, Section 27361, 27361.1, 27361.2, 27361.3, 27361.4, 27361.8, 27364, 27365, or 27366 of the Government Code, Section 10605 of the Health and Safety Code, or Section 9407 of the Uniform Commercial Code.

(7) Any fee charged or collected pursuant to Article 7 (commencing with Section 26720) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This bill permits court fees to remain at a level which will not place further financial burdens upon persons of low income with regard to their access to the courts of the state. In order to accomplish this objective at the earliest possible time, it is necessary that this act take immediate effect.

CHAPTER 619

An act to amend Sections 22651 and 22651.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway located within the territorial limits in which the officer or employee may act under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway or any public lands and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full

control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway or any public lands are, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person into custody.

(i) When any vehicle, other than a rented vehicle, is found upon a highway or any public lands and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded to the agency responsible for processing notices of parking violations, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(1) Pays the cost of towing and storing the vehicle.

(2) Submits evidence of payment of fees as provided in Section 9561.

(3) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the deposit of bail for all

notices of parking violations issued for the vehicle. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt thereof, bail for all notices of parking violations issued for the vehicle.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any vehicle is found upon a highway or any public lands with a registration expiration date in excess of one year before the date it is found on the highway. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway or any public lands shall not be released to the registered owner or his or her agent except upon presentation

of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle or upon order of a court.

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

(r) When any vehicle is illegally parked so as to prevent the movement of a legally parked vehicle.

SEC. 2. Section 22651.3 of the Vehicle Code is amended to read:

22651.3. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which any vehicle, other than a rented vehicle, is located may remove the vehicle from an offstreet public parking facility located within the territorial limits in which the officer or employee may act when the vehicle is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded or when any vehicle is illegally parked so as to prevent the movement of a legally parked vehicle.

A notice of parking violation issued to a vehicle which is registered in a foreign jurisdiction or is without current California registration and is known to have been issued five or more notices of parking violation over a period of five or more days shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle.

(b) The vehicle may be impounded until the owner or person in control of the vehicle furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and furnishes satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, the owner or person in control of the vehicle may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(c) Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of

subdivision (a) of Section 4000 shall be issued to the owner or person in control of the vehicle.

CHAPTER 620

An act to amend Sections 1785 and 1786 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor August 26, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1785 of the Unemployment Insurance Code is amended to read:

1785. If any amount required to be paid under this division is not paid when due, the director or his authorized representative may, not later than three years after the payment became delinquent, or within 10 years after the last entry of a judgment under Article 5 (commencing with Section 1815) or within 10 years after the last recording or filing of a notice of state tax lien under Section 7171 of the Government Code, issue a warrant for the enforcement of any liens and for the collection of any amount required to be paid to the state under this division. The warrant shall be directed to any sheriff, marshal, member of the California State Police Division, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

SEC. 2. Section 1786 of the Unemployment Insurance Code is amended to read:

1786. The department may pay or advance to the sheriff, marshal, member of the California State Police Division, or constable, the same fees, commissions, and expenses for his or her services under this article as are provided by law for similar services pursuant to a writ of execution. The director, and not the court, shall approve the fees for publication in a newspaper.

CHAPTER 621

An act to amend Section 14005.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14005.5 of the Welfare and Institutions Code is amended to read:

14005.5. (a) In determining eligibility pursuant to Section 14005.4 or 14005.7, reparation or restitution payments received by victims of the Nazi persecution from the Federal Republic of Germany pursuant to the Federal Law on the Compensation of Victims of the National Socialist Persecution (Federal Compensation Law), as enacted by that government on June 29, 1956, shall not be deemed as available income, nor shall any accumulation of those payments be considered an available resource, to the extent that the funds are not spent and are kept identifiable.

(b) The director shall seek federal waivers from the Secretary of the United States Department of Health and Human Services, in order to ensure federal financial participation. In the event of an initial determination by the Secretary of the United States Department of Health and Human Services that any provision of this section is in conflict with any federal statute or regulation, the department shall take all available and necessary steps to obtain a final determination reversing that decision. In the event that a final determination is made which finds a conflict with federal law, the director shall immediately request the Attorney General to seek judicial review of the determination, and the director shall notify the appropriate policy and fiscal committees of both houses of the Legislature of its request. Notwithstanding the outcome of the director's efforts to obtain waivers under this subdivision, or a final judicial decision holding that any provision of this section is in conflict with federal law, subdivision (a) shall be implemented on July 1, 1985, or the date upon which waivers are obtained under this subdivision, whichever is earlier. Failure to obtain waivers pursuant to this subdivision shall not affect implementation of subdivision (a).

CHAPTER 622

An act to add Section 13712.5 to the Water Code, relating to water quality.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 13712.5 is added to the Water Code, to read:

13712.5. Notwithstanding Section 13712, all wells constructed for the purpose of monitoring the presence of groundwater which has adversely affected, or threatens to adversely affect, crop root zones are exempt from the reporting requirements of this chapter.

CHAPTER 623

An act to amend Sections 21800, 21801, 21802, 21803, 21804, 21805, and 21806 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 21800 of the Vehicle Code is amended to read:

21800. (a) The driver of a vehicle approaching an intersection shall yield the right-of-way to any vehicle which has entered the intersection from a different highway.

(b) (1) When two vehicles enter an intersection from different highways at the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right, except that the driver of any vehicle on a terminating highway shall yield the right-of-way to any vehicle on the intersecting continuing highway.

(2) For the purposes of this section, "terminating highway" means a highway which intersects, but does not continue beyond the intersection, with another highway which does continue beyond the intersection.

(c) When two vehicles enter an intersection from different highways at the same time and the intersection is controlled from all directions by stop signs, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right.

(d) (1) The driver of any vehicle approaching an intersection which has official traffic control signals that are inoperative shall stop at the intersection, and may proceed with caution when it is safe to

do so.

(2) When two vehicles enter an intersection from different highways at the same time, and the official traffic control signals for the intersection are inoperative, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on his or her immediate right, except that the driver of any vehicle on a terminating highway shall yield the right-of-way to any vehicle on the intersecting continuing highway.

(e) This section does not apply to any of the following:

(1) Any intersection controlled by an official traffic control signal or yield right-of-way sign.

(2) Any intersection controlled by stop signs from less than all directions.

(3) When vehicles are approaching each other from opposite directions and the driver of one of the vehicles intends to make, or is making, a left turn.

SEC. 2. Section 21801 of the Vehicle Code is amended to read:

21801. (a) The driver of a vehicle intending to turn to the left or to complete a U-turn at an intersection, or to turn left into public or private property, or an alley, shall yield the right-of-way to all vehicles approaching from the opposite direction which are close enough to constitute a hazard at any time during the turning movement, and shall continue to yield the right-of-way to the approaching vehicles until the left turn or U-turn can be made with reasonable safety.

(b) A driver having yielded as prescribed in subdivision (a), and having given a signal when and as required by this code, may turn left or complete a U-turn, and the drivers of vehicles approaching the intersection or the entrance to the property or alley from the opposite direction shall yield the right-of-way to the turning vehicle.

SEC. 3. Section 21802 of the Vehicle Code is amended to read:

21802. (a) The driver of any vehicle approaching a stop sign at the entrance to, or within, an intersection shall stop as required by Section 22450. The driver shall then yield the right-of-way to any vehicles which have approached from another highway, or which are approaching so closely as to constitute an immediate hazard, and shall continue to yield the right-of-way to those vehicles until he or she can proceed with reasonable safety.

(b) A driver having yielded as prescribed in subdivision (a) may proceed to enter the intersection, and the drivers of all other approaching vehicles shall yield the right-of-way to the vehicle entering or crossing the intersection.

(c) This section does not apply where stop signs are erected upon all approaches to an intersection.

SEC. 4. Section 21803 of the Vehicle Code is amended to read:

21803. (a) The driver of any vehicle approaching any intersection which is controlled by a yield right-of-way sign shall, upon arriving at the sign, yield the right-of-way to any vehicles which have entered the intersection, or which are approaching on the

intersecting highway close enough to constitute an immediate hazard, and shall continue to yield the right-of-way to those vehicles until he or she can proceed with reasonable safety.

(b) A driver having yielded as prescribed in subdivision (a) may proceed to enter the intersection, and the drivers of all other approaching vehicles shall yield the right-of-way to the vehicle entering or crossing the intersection.

SEC. 5. Section 21804 of the Vehicle Code is amended to read:

21804. (a) The driver of any vehicle about to enter or cross a highway from any public or private property, or from an alley, shall yield the right-of-way to all traffic, as defined in Section 620, approaching on the highway close enough to constitute an immediate hazard, and shall continue to yield the right-of-way to that traffic until he or she can proceed with reasonable safety.

(b) A driver having yielded as prescribed in subdivision (a) may proceed to enter or cross the highway, and the drivers of all other vehicles approaching on the highway shall yield the right-of-way to the vehicle entering or crossing the intersection.

SEC. 6. Section 21805 of the Vehicle Code is amended to read:

21805. (a) The Department of Transportation, and local authorities with respect to highways under their jurisdiction, may designate any intersection of a highway as a bridle path or equestrian crossing by erecting appropriate signs. The signs shall be erected on the highway at or near the approach to the intersection, and shall be of a type approved by the Department of Transportation. The signs shall indicate the crossing and any crossmarks, safety devices, or signals the authorities deem necessary to safeguard vehicular and equestrian traffic at the intersection.

(b) The driver of any vehicle shall yield the right-of-way to any horseback rider who is crossing the highway at any designated equestrian crossing which is marked by signs as prescribed in subdivision (a).

(c) Subdivision (b) does not relieve any horseback rider from the duty of using due care for his or her own safety. No horseback rider shall leave a curb or other place of safety and proceed suddenly into the path of a vehicle which is close enough to constitute an immediate hazard.

SEC. 7. Section 21806 of the Vehicle Code is amended to read:

21806. Upon the immediate approach of an authorized emergency vehicle which is sounding a siren and which has at least one lighted lamp exhibiting red light that is visible, under normal atmospheric conditions, from a distance of 1,000 feet to the front of the vehicle, the surrounding traffic shall, except as otherwise directed by a traffic officer, do the following:

(a) The driver of every other vehicle shall yield the right-of-way and shall immediately drive to the right-hand edge or curb of the highway, clear of any intersection, and thereupon shall stop and remain stopped until the authorized emergency vehicle has passed.

(b) The operator of every street car shall immediately stop the

street car, clear of any intersection, and remain stopped until the authorized emergency vehicle has passed.

(c) All pedestrians upon the highway shall proceed to the nearest curb or place of safety and remain there until the authorized emergency vehicle has passed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 624

An act to amend Section 470 of the Penal Code and Section 4463 of the Vehicle Code, relating to forgery.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 470 of the Penal Code is amended to read:

470. Every person who, with intent to defraud, signs the name of another person, or a fictitious person, knowing that he or she has no authority so to do, to, or falsely makes, alters, forges, or counterfeits, any charter, letters patent, deed, lease, indenture, writing obligatory, will, testament, codicil, bond, covenant, bank bill or note, post note, check, draft, bill of exchange, contract, promissory note, due bill for the payment of money or property, receipt for money or property, passage ticket, lottery ticket or share purporting to be issued under the California State Lottery Act of 1984, trading stamp, power of attorney, certificate of ownership or other document evidencing ownership of a vehicle or undocumented vessel, or any certificate of any share, right, or interest in the stock of any corporation or association, or any controller's warrant for the payment of money at the treasury, county order or warrant, or request for the payment of money, or the delivery of goods or chattels of any kind, or for the delivery of any instrument of writing, or acquittance, release, or receipt for money or goods, or any acquittance, release, or discharge of any debt, account, suit, action, demand, or other thing, real or personal, or any transfer or assurance of money, certificate of shares of stock, goods, chattels, or other property whatever, or any letter of attorney, or other power to receive money, or to receive or transfer certificates of shares of stock or annuities, or to let, lease, dispose of, alien, or convey any goods, chattels, lands, or tenements, or other estate, real or personal, or any acceptance or indorsement of any bill of exchange, promissory note, draft, order, or any assignment of any

bond, writing obligatory, promissory note, or other contract for money or other property; or counterfeits or forges the seal or handwriting of another; or utters, publishes, passes, or attempts to pass, as true and genuine, any of the above-named false, altered, forged, or counterfeited matters, as above specified and described, knowing the same to be false, altered, forged, or counterfeited, with intent to prejudice, damage, or defraud any person; or who, with intent to defraud, alters, corrupts, or falsifies any record of any will, codicil, conveyance, or other instrument, the record of which is by law evidence, or any record of any judgment of a court or the return of any officer to any process of any court, is guilty of forgery.

SEC. 2. Section 4463 of the Vehicle Code is amended to read:

4463. (a) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison for 16 months, two or three years, or by imprisonment in the county jail for not more than one year:

(1) Alters, forges, counterfeits, or falsifies any certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit provided for by this code or any comparable certificate of ownership, registration card, certificate, license, license plate, device comparable to that issued pursuant to Section 4853, special plate, or permit provided for by any foreign jurisdiction, or alters, forges, counterfeits, or falsifies any such document, device, or plate with intent to represent it as issued by the department, or alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of ownership or other document evidencing ownership, or with fraudulent intent displays or causes or permits to be displayed or have in his or her possession any blank, incomplete, canceled, suspended, revoked, altered, forged, counterfeit, or false certificate of ownership, registration card, certificate, license, license plate, device issued pursuant to Section 4853, special plate, or permit.

(2) Utters, publishes, passes, or attempts to pass, as true and genuine, any false, altered, forged, or counterfeited matter listed in subdivision (a) knowing it to be false, altered, forged, or counterfeited.

(b) Every person who, with intent to prejudice, damage, or defraud, commits any of the following acts is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended:

(1) Forges, counterfeits, or falsifies any disabled person placard or any comparable placard relating to parking privileges for disabled persons provided for by any foreign jurisdiction, or forges, counterfeits, or falsifies any disabled person placard with intent to represent it as issued by the department.

(2) Passes, or attempts to pass, as true and genuine, any false, forged, or counterfeit disabled person placard knowing it to be false, forged, or counterfeited.

(3) Acquires, possesses, sells, or offers for sale a genuine or counterfeit disabled person placard.

(c) Every person who, with fraudulent intent, displays or causes or permits to be displayed any forged, counterfeit, or false disabled person placard, is guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment in the county jail for six months or by a fine of not less than five hundred dollars ($500) or more than one thousand dollars ($1,000), or by both that fine and imprisonment, which penalty shall not be suspended.

(d) For purposes of subdivision (b) or (c), "disabled person placard" means a placard issued pursuant to Section 22511.5 or 22511.9.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 625

An act to amend and repeal Sections 14029.9, 14029.91, 14029.92, 14029.95, 14029.96, 14046, 14083.5, and 14083.6 of the Corporations Code, relating to small business development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14029.9 of the Corporations Code is amended to read:

14029.9. The office, in its discretion and after the approval of the Small Business Development Board, may establish a program through which urban and rural small business development corporations may assist California small businesses by making available financial aid for the development phase of a definable product or process which is new to the business undertaking the development. Projects approved by a corporation shall be eligible for reimbursement on a regular basis up to 60 percent of allowable, documented expenses. Projects approved and the amount invested shall be based upon an analysis of the business plan submitted by the company. Evaluation criteria shall include product feasibility, company ability, marketing availability, job creation, and overall

financial condition. Products need not be high technology but should be innovative.

In accordance with subdivision (h) of Section 14023.5, the executive director may appoint a technology marketing advisory committee to review product development applications being considered for funding by UDCs and RDCs. The advisory committee shall include, among others, a product development specialist, a marketing specialist, and a venture capitalist.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 14029.91 of the Corporations Code is amended to read:

14029.91. In accordance with subdivision (a) of Section 14023.5, the executive director may provide technical assistance and staff support for the technology marketing advisory committee created pursuant to Section 14029.9 and to the UDCs and RDCs implementing that section.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 14029.92 of the Corporations Code is amended to read:

14029.92. The office may propose and the board may adopt regulations and investment guidelines including a definition of allowable expenses for the product development program established by Section 14029.9.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 14029.95 of the Corporations Code is amended to read:

14029.95. If the office establishes the program authorized by Section 14029.9, return on investments authorized by Section 14029.9 for the corporations shall be derived from a royalty based on the sale of the product developed. The royalty shall not exceed 5 percent of the new product sales unless approval is granted by the Executive Director of the Office of Small Business Development after notification of the Small Business Development Board of Directors. The royalty payment shall continue until a specified multiple of the corporation's investment has been returned within a specified period of time. After the required multiple has been reached, the royalty rate may be reduced and continued for a fixed time period.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the

dates on which it becomes inoperative and is repealed.

SEC. 5. Section 14029.96 of the Corporations Code is amended to read:

14029.96. If the office establishes the program authorized by Section 14029.9, the corporations shall charge an application fee for assistance for product development of up to 1.5 percent of the amount requested or a minimal fee of one hundred dollars ($100).

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 14046 of the Corporations Code, as amended by Chapter 844 of the Statutes of 1987, is amended to read:

14046. (a) Except as provided in subdivision (d) of Section 14131 and Sections 14083 and 14083.5 the purpose of a regional small business development corporation loan guarantee fund shall be to make and guarantee loans, approved by the regional corporation, which meet the California Small Business Development Corporation Law loan criteria established by the board, policies of the corporation, and provisions of Article 7.5 (commencing with Section 14066). The state shall not be liable or obligated in any way as a result of the allocation of state money to a regional small business development corporation loan guarantee fund beyond the state money which is allocated and deposited in the fund pursuant to this chapter, and which is not otherwise withdrawn by the state pursuant to this chapter.

(b) A summary of all loans to which a state guarantee is attached shall be submitted to the executive director upon completion of the loan agreement.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 14046 of the Corporations Code, as added by Chapter 750 of the Statutes of 1987, is amended to read:

14046. (a) Except as provided in subdivision (d) of Section 14131, and Section 14083, the purpose of a regional small business development corporation loan guarantee fund shall be to make and guarantee loans, approved by the regional corporation, which meet the California Small Business Development Corporation Law loan criteria established by the board, policies of the corporation, and provisions of Article 7.5 (commencing with Section 14066). The state shall not be liable or obligated in any way as a result of the allocation of state money to a regional small business development corporation loan guarantee fund beyond the state money which is allocated and deposited in the fund pursuant to this chapter, and which is not otherwise withdrawn by the state pursuant to this chapter.

(b) A summary of all loans to which a state guarantee is attached shall be submitted to the executive director upon completion of the

loan agreement.

(c) This section shall become operative on July 1, 1991.

SEC. 8. Section 14083.5 of the Corporations Code is amended to read:

14083.5. If the office establishes the program authorized by Section 14029.9, the corporations are authorized to use up to one-tenth of the amount within their regional small business development corporation loan guarantee fund to make investments in California small businesses for product development as specified in Sections 14029.9 and 14029.95. The investments in each business shall not exceed the amount of the current loan guarantee limits established by regulation.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 14083.6 of the Corporations Code is amended to read:

14083.6. If the office establishes the program authorized by Section 14029.9, revenues derived from royalties on product investments shall be returned to the investing corporation's regional small business development corporation loan fund.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Department of Commerce to legally carry out the provisions of law authorizing the establishment of the small business product development program, which is in effect, it is necessary that this act go into immediate effect.

CHAPTER 626

An act to amend Section 19612.6 of the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less which conducts a racing meeting pursuant to Section 19534, 19549, 19549.1, 19549.5, 19549.6, 19549.7, 19549.9, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each association deducting amounts pursuant to subdivision (a) shall pay a daily license fee based on its conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility, at the following rates:

Daily handle	License fee rate
$300,000 and under	1.0 percent of the handle
$300,001 to $350,000	$3,000 plus 1.5 percent of the handle in excess of $300,000
$350,001 to $400,000	$3,750 plus 2.0 percent of the handle in excess of $350,000
$400,001 to $450,000	$4,750 plus 2.5 percent of the handle in excess of $400,000
$450,001 to $500,000	$6,000 plus 3.0 percent of the handle in excess of $450,000
$500,001 to $550,000	$7,500 plus 3.5 percent of the handle in excess of $500,000
$550,001 or more	$9,250 plus 4.0 percent of the handle in excess of $550,000

(c) (1) For harness and mixed meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse, Appaloosa, Appaloosa invitational, and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

(2) Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(d) If an association qualified to operate its meeting pursuant to this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

(e) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 1 percent of its parimutuel pools to be distributed as commissions.

(f) In addition to any deductions pursuant to this section, every association conducting a racing meeting pursuant to Section 19549.1 shall also deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

(g) (1) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars ($650,000) or less conducting a meeting pursuant to Section 19549.2 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this subdivision. The association shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
$300,000 and under	0.5 percent of the handle
$300,001 to $350,000	$1,500 plus 1.0 percent of the handle in excess of $300,000
$350,001 to $400,000	$2,000 plus 1.5 percent of the handle in excess of $350,000
$400,001 to $450,000	$2,750 plus 2.0 percent of the handle in excess of $400,000
$450,001 to $500,000	$3,750 plus 2.5 percent of the handle in excess of $450,000
$500,001 to $550,000	$5,000 plus 3.0 percent of the handle in excess of $500,000
$550,001 or more	$6,500 plus 3.5 percent of the handle in excess of $550,000

(2) The amount remaining after payment of the state license fee pursuant to this subdivision shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating in the meeting.

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

In order to ensure viable harness racing meets during the 1988 racing season, it is necessary that this act take effect immediately.

CHAPTER 627

An act to amend Section 17041 of, and to repeal Section 17052.1 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 17041 of the Revenue and Taxation Code is amended to read:

17041. (a) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, except the head of a household as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $3,650	1% of the taxable income
Over $3,650 but not over $8,650	$36.50 plus 2% of the excess over $3,650
Over $8,650 but not over $13,650	$136.50 plus 4% of the excess over $8,650
Over $13,650 but not over $18,950	$336.50 plus 6% of the excess over $13,650
Over $18,950 but not over $23,950	$654.50 plus 8% of the excess over $18,950
Over $23,950	$1,054.50 plus 9.3% of the excess over $23,950

(b) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources in this state, except the head of a household as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (a) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (a) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(c) There shall be imposed for each taxable year upon the entire taxable income of every resident of this state, when such resident is

the head of a household, as defined in Section 17042, taxes in the following amounts and at the following rates upon the amount of taxable income:

If the taxable income is:	The tax is:
Not over $7,300	1% of the taxable income
Over $7,300 but not over $17,300	$73 plus 2% of the excess over $7,300
Over $17,300 but not over $22,300	$273 plus 4% of the excess over $17,300
Over $22,300 but not over $27,600	$473 plus 6% of the excess over $22,300
Over $27,600 but not over $32,600	$791 plus 8% of the excess over $27,600
Over $32,600	$1,191 plus 9.3% of the excess over $32,600

(d) There shall be imposed for each taxable year upon the entire taxable income of every nonresident or part-year resident which is derived from sources within this state when such nonresident or part-year resident is the head of a household, as defined in Section 17042, a tax which shall be equal to the tax computed under subdivision (c) as if the nonresident or part-year resident were a resident multiplied by the ratio of California adjusted gross income to total adjusted gross income from all sources. For purposes of computing the tax under subdivision (c) and gross income from all sources, the net operating loss deduction provided in Section 172 of the Internal Revenue Code, as modified by Section 17276, shall be computed as if the taxpayer was a resident for all prior years.

(e) There shall be imposed for each taxable year upon the taxable income of every estate, trust, or common trust fund taxes equal to the amount computed under subdivision (a) for an individual having the same amount of taxable income.

(f) The tax imposed by this part is not a surtax.

(g) For purposes of this section, the taxation of the unearned income of a minor child who has not attained age 14 before the close of the taxable year and who has a parent living at the close of the taxable year shall be determined in accordance with Section 1(i) of the Internal Revenue Code, relating to certain unearned income of minor children taxed as if the parent's income.

(h) For each taxable year beginning on or after January 1, 1988, the Franchise Tax Board shall recompute the income tax brackets prescribed in subdivisions (a) and (c). That computation shall be made as follows:

(1) The California Department of Industrial Relations shall

transmit annually to the Franchise Tax Board the percentage change in the California Consumer Price Index for all items from June of the prior calendar year to June of the current calendar year, no later than August 1 of the current calendar year.

(2) For taxable years beginning on and after January 1, 1988, and thereafter, the Franchise Tax Board shall compute an inflation adjustment factor by adding 100 percent to the percentage change figure which is furnished pursuant to paragraph (1) and dividing the result by 100, the amounts of each bracket to be rounded off to the nearest one dollar ($1).

(i) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(1) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income, regardless of source.

(2) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

SEC. 2. Section 17052.1 of the Revenue and Taxation Code is repealed.

CHAPTER 628

An act to amend Section 17062 of, and repeal Sections 18411, 18817.3, and 26132.05 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 26, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 17062 of the Revenue and Taxation Code, as amended by Chapter 11 of the Statutes of 1988, is amended to read:

17062. (a) In addition to the other taxes imposed by this part, there is hereby imposed for each taxable year, a tax equal to the excess, if any, of—

(1) The tentative minimum tax for the taxable year, over

(2) The regular tax for the taxable year.

(b) For purposes of this chapter, each of the following shall apply:

(1) The tentative minimum tax shall be computed in accordance with Sections 55 to 59, inclusive, of the Internal Revenue Code, except as otherwise provided in this part.

(2) The regular tax shall be the amount of tax imposed by Section 17041 or 17048, reduced by credits for taxes paid to other states allowed by Chapter 12 (commencing with Section 18001).

(3) (A) The provisions of Section 55(b)(1) of the Internal

Revenue Code shall be modified to provide that the tentative minimum tax for the taxable year shall be equal to 7 percent of so much of the alternative minimum taxable income for the taxable year as exceeds the exemption amount, reduced by the alternative credit for taxes paid to other states as allowed by Chapter 12 (commencing with Section 18301).

(B) In the case of a nonresident or part-year resident, the tentative minimum tax shall be computed as if the nonresident or part-year resident were a resident for the entire year multiplied by the ratio of California adjusted gross income (as modified for purposes of this chapter) to total adjusted gross income from all sources (as modified for purposes of this chapter). For purposes of computing the tax under subparagraph (A) and gross income from all sources, the net operating loss deduction provided in Section 56(d) of the Internal Revenue Code shall be computed as if the taxpayer were a resident for all prior years.

(C) For purposes of this section, the term "California adjusted gross income" includes each of the following:

(i) For any period during which the taxpayer was a resident of this state (as defined by Section 17014), all items of adjusted gross income (as modified for purposes of this chapter), regardless of source.

(ii) For any period during which the taxpayer was not a resident of this state, only those items of adjusted gross income (as modified for purposes of this chapter) which were derived from sources within this state, determined in accordance with Chapter 11 (commencing with Section 17951).

(4) (A) If there was a deferral of preference tax under former Section 17064.8 for any taxable year beginning before January 1, 1987, and the amount of the deferred tax has not been paid for any taxable year beginning before January 1, 1987, the amount of the net operating loss carryovers which may be carried to taxable years beginning after December 31, 1986, for purposes of this chapter, shall be reduced by the amount of the tax preferences attributable to the deferred tax which has not been paid.

(B) In the case of a net operating loss allowed to be carried forward under subdivision (d) of Section 17276, subparagraph (A) shall apply to the extent that such a loss would have resulted in a deferred tax under prior law.

(5) The provisions of Section 57(a)(5) of the Internal Revenue Code, relating to tax-exempt interest shall not be applicable.

(6) The provisions of Section 59(a) of the Internal Revenue Code, relating to the alternative minimum tax foreign tax credit, shall not be applicable.

SEC. 2. Section 18411 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 18817.3 of the Revenue and Taxation Code is repealed.

SEC. 4. Section 26132.05 of the Revenue and Taxation Code is repealed.

CHAPTER 629

An act to amend Section 2 of Chapter 1327 of the Statutes of 1986, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 2 of Chapter 1327 of the Statutes of 1986 is amended to read:

Sec. 2. The sum of three hundred forty-five thousand dollars ($345,000) is appropriated from the General Fund to the Controller for purposes of loaning that sum to the Local Agency Self-Insurance Authority to pay for original operating costs. The Local Agency Self-Insurance Authority shall repay this amount to the General Fund not later than June 30, 1989, together with interest at the same rate as the Pooled Money Investment Account.

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

It is necessary for this act to take effect immediately in order to permit the Local Agency Self-Insurance Authority to carry out the provisions of Chapter 1327 of the Statutes of 1986.

CHAPTER 630

An act to amend Sections 52323, 52324, 52325, 52455, 52484, and 52944 of the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 52323 of the Food and Agricultural Code is amended to read:

52323. The department's cost of carrying out this chapter shall be funded from money which is received by the director pursuant to this chapter. The director shall also pay annually, in arrears, 30 percent of the total assessment fees received pursuant to Section 52354 or sixty-five thousand dollars ($65,000), whichever sum is greater, to counties as a subvention for costs incurred in the enforcement of this chapter. However, in no case shall the annual

subvention to the counties exceed one hundred twenty thousand dollars ($120,000). The department's costs of administering this chapter shall be paid before allocating funds to the counties under this section.

This section shall become inoperative on July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 52324 of the Food and Agricultural Code is amended to read:

52324. The subvention program under Section 52323 is an optional program that the counties may choose to participate in. The subvention to counties under Section 52323 shall be apportioned as follows:

(a) Counties with no registered seed labelers shall annually receive one hundred dollars ($100).

(b) Counties with registered seed labeler operations shall receive subventions based upon units of enforcement activity generated by the registered seed labeler operations within the county. The units of activity shall be determined by the director, taking into consideration the number of lots and kinds of seed labeled by each registered seed labeler operation within the county. The rate per unit of activity shall be established by dividing the total statewide units of activity into the annual funds available to the counties under Section 52323 after deducting the amount required for subventions in subdivision (a). Apportionment to individual counties shall be based upon the county's total units of activity times the established rate.

This section shall become inoperative on July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Section 52325 of the Food and Agricultural Code is amended to read:

52325. Commissioners of counties that choose to participate in the subvention program shall enter into a cooperative agreement with the director, whereby the commissioner agrees to maintain a statewide compliance level, determined by the director, on all seed within the county. The cooperative agreement shall be in effect for a five-year period. The annual apportionment calculated under subdivision (b) of Section 52324 to each individual participating county shall be established in a memorandum of understanding between the commissioner and the director.

This section shall become inoperative on July 1, 1994, and as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 52455 of the Food and Agricultural Code is amended to read:

52455. In addition to the labeling requirements of this article, all seed, except vegetable seed in containers of one-half pound (227 grams) or less, at the time of sale by a retail merchant for nonfarm usage, shall conspicuously bear upon the labeling of the seed a viability assurance statement.

(a) The statement shall be "SELL BY (month) (year)," or "USE BEFORE (month) (year)." The month and year in the statement shall not exceed the 15-month retail time period allowed by subdivision (b) of Section 52481.

(b) The statement shall be conspicuous and in capital letters of the same size of type as other printed material on the labeling and contiguous to the germination date.

(c) The statement shall be affixed at the time of labeling for those containers destined for retail sales.

(d) This section does not apply to seed bearing a date of test which is prior to July 1, 1984.

SEC. 5. Section 52484 of the Food and Agricultural Code is amended to read:

52484. (a) Except as otherwise provided in Section 52486, it is unlawful for any person to ship, deliver, transport, or sell agricultural or vegetable seed which is treated after harvest with any substance that is likely to be poisonous or toxic to human beings or animals unless there is conspicuously shown on the analysis tag or label, on a separate tag or label attached to each container, or upon each container all of the following information:

(1) "TREATED SEED" and the signal word for the category of treatment material all in capital letters.

(2) The chemical or generic name of the treatment material.

(3) An appropriately worded statement as to the hazards to humans and animals.

(4) An appropriately worded statement of practical treatment, if present.

(b) This information shall be derived from the technical chemical label of the substance applied to the seed.

(c) When more than one substance is applied, each substance shall be noted on the label, and the seed shall be labeled for the substance with the higher level of toxicity.

SEC. 6. Section 52944 of the Food and Agricultural Code is amended to read:

52944. The assessment fee shall be paid to the director within one calendar month after July 1 of each year, for cottonseed delinted in the preceding fiscal year or portion of a fiscal year beginning July 1, except that no assessment shall be paid by any person or organization for any cottonseed for which the assessment has been previously paid. If not paid within such period, a penalty of 10 percent of the assessment fee owed shall be due and payable to the director.

CHAPTER 631

An act to amend Section 42001.3 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 42001.3 of the Vehicle Code is amended to read:

42001.3. (a) Violations of Section 34506.3, with respect to any regulation adopted under Section 34501 relative to the maintenance of driving logs, shall be punishable by a fine of not more than five hundred dollars ($500).

(b) Violations of subdivision (a) of Section 34506, with respect to any regulation adopted under Section 34501 relative to drivers' hours of service, shall be punishable by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). In addition, the violations may be punishable by imprisonment in the county jail for not more than six months.

CHAPTER 632

An act to amend Section 19469 of the Welfare and Institutions Code, relating to handicapped persons.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 19469 of the Welfare and Institutions Code is amended to read:

19469. No loan in excess of twelve thousand five hundred dollars ($12,500) shall be made to any eligible person under this article.

CHAPTER 633

An act to amend Section 56161 of the Food and Agricultural Code, relating to produce dealers.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 56161 of the Food and Agricultural Code is amended to read:

56161. This chapter does not apply to or include any of the following:

(a) Any nonprofit cooperative association organized and operating pursuant to Chapter 1 (commencing with Section 54001), any nonprofit cooperative association organized and operating pursuant to any similar law of any other state, the District of Columbia, or the United States, or the agents of these organizations, except as to the activities of these organizations or agents which involve the handling of, or dealing in, any farm product of a nonmember of the organization.

(b) Any person or exchange that buys, receives, or otherwise handles any farm product as a processor, as defined in Section 55407.

(c) Any retail merchant who has a fixed or established place of business in this state. This exemption does not, however, apply to retail merchants who are also engaged in the business of selling, at wholesale, any farm product purchased from a licensee or producer. Nor does it apply to any transaction wherein possession of any farm product is obtained from a licensee or producer, and the farm product is sold to another person without being handled in the regular course of a retail business which is conducted at a fixed and established place.

(d) Any person who buys any farm product for his or her own use or consumption.

(e) Any person licensed as a distributor or handler under Chapter 2 (commencing with Section 61801) of Part 3 of Division 21 who purchases farm products from a dealer, broker, or commission merchant. However, this chapter applies to any such licensed person who purchases farm products from a producer.

(f) Any person licensed as a landscape contractor pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code.

CHAPTER 634

An act to add Section 14133 to the Corporations Code, relating to economic development.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. (a) This section shall be known and may be cited as the Small Business Incubator Development Act.

(b) The Legislature finds and declares the following:

(1) A majority of California's small businesses fail in the first five years of operation largely due to lack of management and business skills and undercapitalization.

(2) Small businesses provide the source of most new replacement jobs, the origin of most innovations, and are the generator of economic growth in California. Additionally, small businesses generally stay in the community in which the business is first developed thereby contributing to a multiplier effect of dollars spent in a local economy.

(3) Small business incubator facilities, also known as business and technology centers, are being discovered as a new and innovative way to significantly increase the small businesses' probability of success, and to create and market new technologies, and provide students with training opportunities in entrepreneurship.

(4) A successful incubator program can also mean an expanded tax base for a community through new business revenues and personal incomes. In addition, many incubator facilities have begun to revitalize decaying neighborhoods by rehabilitating old or vacant buildings.

(5) It is in the interest of California's small business community to bring together the private sector and various levels of government interested in sponsoring incubator facilities for the purpose of job creation and retention.

(6) In an era when promotional efforts to recruit out-of-state industries has proven to be of marginal success, the goal of a small business incubator is to develop potential entrepreneurship talent within our own state and local communities.

SEC. 2. Section 14133 is added to the Corporations Code, to read:

14133. (a) Urban development corporations and rural development corporations shall give high priority to the issuance of loans and loan guarantees to small business incubators, and to businesses which lease space in incubators provided that the businesses qualify under subdivision (h) of Section 7082 of the Government Code, and provided that the incubator headquarters are located within enterprise zones as defined in subdivision (d) of Section 7073 of the Government Code or within economic incentive

areas designated under any other provision of law.

(b) For the purposes of this section, "incubator" means a facility that allows new small businesses to increase their probability of success by sharing needed capital equipment, services, and facilities, which may include, but are not limited to, the following:

(1) Reception and meeting area.

(2) Secretarial services (i.e., collating, telephone answering, mailhandling).

(3) Accounting and bookkeeping services.

(4) Research libraries.

(5) Onsite financial and management counseling.

(6) Parking.

(7) Flexible lease arrangements for flexible space.

(8) Computer/word processing facilities.

(9) Day care facilities.

(10) Office furniture rentals.

(11) A graduation policy sometimes requiring firms to leave after three to five years in a subsidized, nurturing environment.

(12) Employee training and placement services.

CHAPTER 635

An act to amend Sections 1170 and 1170.3 of the Penal Code, relating to sentencing.

[Approved by Governor August 26, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of disparity and the provision of uniformity of sentences can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense as determined by the Legislature to be imposed by the court with specified discretion.

(2) In any case in which the punishment prescribed by statute for a person convicted of a public offense is a term of imprisonment in the state prison of 16 months, two or three years; two, three, or four years; two, three, or five years; three, four, or five years; two, four, or six years; three, four, or six years; three, five, or seven years; three, six, or eight years; five, seven, or nine years; five, seven, or 11 years, or any other specification of three time periods, the court shall

sentence the defendant to one of the terms of imprisonment specified unless such convicted person is given any other disposition provided by law, including a fine, jail, probation, or the suspension of imposition or execution of sentence or is sentenced pursuant to subdivision (b) of Section 1168 because he or she had committed his or her crime prior to July 1, 1977. In sentencing the convicted person, the court shall apply the sentencing rules of the Judicial Council. The court, unless it determines that there are circumstances in mitigation of the punishment prescribed, shall also impose any other term which it is required by law to impose as an additional term. Nothing in this article shall affect any provision of law which imposes the death penalty, which authorizes or restricts the granting of probation or suspending the execution or imposition of sentence, or expressly provides for imprisonment in the state prison for life. In any case in which the amount of preimprisonment credit under Section 2900.5 or any other provision of law is equal to or exceeds any sentence imposed pursuant to this chapter, the entire sentence, including any period of parole under Section 3000, shall be deemed to have been served and the defendant shall not be actually delivered to the custody of the Director of Corrections. However, any such sentence shall be deemed a separate prior prison term under Section 667.5, and a copy of the judgment and other necessary documentation shall be forwarded to the Director of Corrections.

(b) When a judgment of imprisonment is to be imposed and the statute specifies three possible terms, the court shall order imposition of the middle term, unless there are circumstances in aggravation or mitigation of the crime. At least four days prior to the time set for imposition of judgment, either party or the victim, or the family of the victim if the victim is deceased, may submit a statement in aggravation or mitigation to dispute facts in the record or the probation officer's report, or to present additional facts. In determining whether there are circumstances that justify imposition of the upper or lower term, the court may consider the record in the case, the probation officer's report, other reports including reports received pursuant to Section 1203.03 and statements in aggravation or mitigation submitted by the prosecution, the defendant, or the victim, or the family of the victim if the victim is deceased, and any further evidence introduced at the sentencing hearing. The court shall set forth on the record the facts and reasons for imposing the upper or lower term. The court may not impose an upper term by using the fact of any enhancement upon which sentence is imposed under Section 667.5, 1170.1, 12022, 12022.4, 12022.5, 12022.6, or 12022.7 or under any other section of law. A term of imprisonment shall not be specified if imposition of sentence is suspended.

(c) The court shall state the reasons for its sentence choice on the record at the time of sentencing. The court shall also inform the defendant that as part of the sentence after expiration of the term he or she may be on parole for a period as provided in Section 3000.

(d) When a defendant subject to this section or subdivision (b) of

Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the Director of Corrections, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the Director of Corrections or the Board of Prison Terms, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) Any sentence imposed under this article shall be subject to the provisions of Sections 3000 and 3057 and any other applicable provisions of law.

(f) (1) Within one year after the commencement of the term of imprisonment, the Board of Prison Terms shall review the sentence to determine whether the sentence is disparate in comparison with the sentences imposed in similar cases. If the Board of Prison Terms determines that the sentence is disparate, the board shall notify the judge, the district attorney, the defense attorney, the defendant, and the Judicial Council. The notification shall include a statement of the reasons for finding the sentence disparate.

Within 120 days of receipt of this information, the sentencing court shall schedule a hearing and may recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if the defendant had not been sentenced previously, provided the new sentence is no greater than the initial sentence. In resentencing under this subdivision the court shall apply the sentencing rules of the Judicial Council and shall consider the information provided by the Board of Prison Terms.

(2) The review under this section shall concern the decision to deny probation and the sentencing decisions enumerated in paragraphs (2), (3), and (4) of subdivision (a) of Section 1170.3 and apply the sentencing rules of the Judicial Council and the information regarding the sentences in this state of other persons convicted of similar crimes so as to eliminate disparity of sentences and to promote uniformity of sentencing.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

(h) A sentence to state prison for a determinate term for which only one term is specified, is a sentence to state prison under this section.

SEC. 2. Section 1170.3 of the Penal Code is amended to read:

1170.3. The Judicial Council shall seek to promote uniformity in sentencing under Section 1170, by:

(a) The adoption of rules providing criteria for the consideration of the trial judge at the time of sentencing regarding the court's decision to:

(1) Grant or deny probation.

(2) Impose the lower or upper prison term.

(3) Impose concurrent or consecutive sentences.

(4) Determine whether or not to impose an enhancement where that determination is permitted by law.

(b) The adoption of rules standardizing the minimum content and the sequential presentation of material in probation officer reports submitted to the court.

CHAPTER 636

An act to add and repeal Section 11550.1 of the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 11550.1 is added to the Health and Safety Code, to read:

11550.1. (a) Notwithstanding the provisions of Section 11550, as a pilot program applicable solely to Santa Clara County, a court may impose, as conditions of probation for persons convicted of violating Section 11550, in lieu of a term of imprisonment in the county jail, that the person do all of the following:

(1) Participate in an intensive drug treatment program as designated by the court, for not less than 90 days. The court shall consider the need for safety precautions in all drug treatment placements made pursuant to this subdivision.

(2) Be tested on a regular basis to determine whether the person has recently used a controlled substance.

(3) Pay the costs of the treatment program commensurate with the person's ability to pay.

(4) Complete the intensive drug treatment program in a manner satisfactory to the court.

(5) Such other conditions of probation, in addition to those enumerated, as the court may designate.

(b) If a person fails to successfully complete the program under subdivision (a) and probation is terminated, the court shall impose a term of not less than 90 days, nor more than one year, in the county jail. If a person convicted for a second or subsequent violation of Section 11550 is again granted probation under this section, as a condition thereof that person shall be confined in the county jail for

not less than 90 days. No credit for time served in an intensive drug treatment program may be credited toward this 90 day term when the program has not been successfully completed.

(c) This section does not apply to persons where the offense charged involved driving a vehicle while under the influence of a drug or a crime of violence or threatened violence. Any person who has previously participated in a program under this section or has been committed to the California Rehabilitation Center pursuant to Section 3051 of the Welfare and Institutions Code, is ineligible for the program authorized by this section.

(d) Notwithstanding Section 4019 or 2900.5 of the Penal Code, no time served in a drug treatment program pursuant to this section shall be credited against any jail or prison sentence which may be subsequently imposed.

(e) The State of California and the County of Santa Clara shall not be liable for the cost of drug treatment provided pursuant to this section.

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later statute enacted before January 1, 1991, deletes or extends that date.

SEC. 2. The purpose of the pilot program created by this act is to determine the cost efficiency and therapeutic value of intensive drug treatment for persons convicted of violating Section 11550 of the Health and Safety Code.

The County of Santa Clara shall review the results of the use of intensive drug treatment programs and the effect of the programs upon the recidivism of persons under the influence of a controlled substance in Santa Clara County in the years 1988 and 1989.

The pilot program shall be deemed effective if those persons completing drug treatment programs pursuant to this section demonstrate a reduction of at least 25 percent recidivism as compared to the recidivism rates of persons serving sentences in the county jail for the same violation.

On or before April 1, 1990, the County of Santa Clara shall submit a report to the Legislature on its study and review of this act. The report shall also compare the recidivism rates of persons completing the treatment programs with recidivism rates of persons serving sentences in the county jail for the same violation.

SEC. 3. No reimbursement is required for the duties imposed by Section 2 of this act pursuant to Section 6 of Article XIII B of the California Constitution because Section 2 of this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the programs specified in Section 2 of this act.

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

In order to provide for the orderly incarceration and treatment of

the over 5,000 persons convicted of using controlled substances in Santa Clara County each year and to effectively reduce this number, it is necessary that this act take effect immediately.

CHAPTER 637

An act to amend Sections 10058 and 10062 of, and to add Section 10058.5 to, the Health and Safety Code, relating to records.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 10058 of the Health and Safety Code is amended to read:

10058. The local registrar shall number the certificates of live birth, fetal death, and death consecutively in separate series, beginning with number one for the first event in each calendar year.

SEC. 2. Section 10058.5 is added to the Health and Safety Code, to read:

10058.5. The local registrar shall number each certificate of marriage consecutively beginning with the number one for either the first event occurring, or first event registered in, each calendar year. Numbering may be based on either the year that the event occurs or the year of registration.

SEC. 3. Section 10062 of the Health and Safety Code is amended to read:

10062. The local registrar of marriages shall transmit to the State Registrar on or before the fifth day of each month all original certificates of registry of marriage accepted for registration by him or her during the preceding month. Certificates shall be batched by calendar year of event prior to transmission. Certificates may be transmitted at more frequent intervals by arrangement with the State Registrar.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 638

An act to add Article 8 (commencing with Section 73600) to Chapter 10 of Title 8 of the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Article 8 (commencing with Section 73600) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 8. El Dorado County Municipal Court

73600. This article applies to the El Dorado County Municipal Court, which supersedes the Ponderosa, Placerville, and Lake Valley Judicial Districts and embraces the entire County of El Dorado.

73601. (a) There is one court administrator for the superior court and the municipal court, who shall be appointed by the board of supervisors with the concurrence of a majority of the judges of the county, and who shall hold office at their pleasure. The court administrator shall receive a monthly salary in the range of three thousand three hundred ninety-six dollars ($3,396)–four thousand one hundred twenty-seven dollars ($4,127).

(b) Notwithstanding subdivision (a) or any other provision of law, the board of supervisors may appoint or remove any other county officer as court administrator pursuant to the terms and conditions of an agreement approved by a majority of the judges of El Dorado County. The court administrator appointed pursuant to this subdivision shall receive a monthly salary in the range of four thousand one hundred forty-nine dollars ($4,149) to five thousand forty-five dollars ($5,045).

73602. The court administrator may, in accordance with the El Dorado County Personnel Rules, appoint the following employees, each of whom shall receive a monthly salary in the range specified:

Position	Salary Range
(a) Three supervising municipal court clerks	$1,466.05–$1,730.73
(b) Three municipal court clerk III's	$1,365.35–$1,611.48
(c) Nine municipal court clerk II's	$1,274.35–$1,498.47
(d) Six municipal court clerk I's	$1,121.64–$1,361.88
(e) The equivalent of 3/4 of one clerk II typist	$1,158.91–$1,363.44

73603. Subject to Section 72001, the compensation of officers and attachés shall be governed by the El Dorado County Personnel Rules, Salary Ordinance, and Memoranda of Understanding with the

recognized labor organizations representing court employees.

73604. The officers and attaches of the municipal court shall be entitled to the same vacation, sick leave, and benefits and privileges as are granted to other comparable employees of El Dorado County.

73605. Commencing January 7, 1991, the El Dorado County Sheriff shall be ex officio marshal.

73606. Any individual serving as an elected constable in any of the three justice court districts previously in existence at the time of the creation of the El Dorado Municipal Court shall, until the expiration of his or her current term in office, be entitled to carry out the duties of the office of marshal or deputy marshal under the same terms and conditions of employment and compensation as were provided prior to creation of the El Dorado County Municipal Court District. Notwithstanding any other provision of law, in the event of a vacancy in the position of marshal or deputy marshal prior to January 7, 1991, an appointment to fill a vacancy shall be made by the court administrator.

73607. All matters affecting the employment of officers and attachés of the El Dorado County Municipal Court District which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current ordinances and resolutions of the Board of Supervisors of El Dorado County.

73608. The number, categories, and compensation of the officers, attachés, and employees provided by this article may be adjusted, as the need is determined, by the board of supervisors and in accordance with established county personnel and budgetary procedures. Any such adjustment shall be on an interim basis and shall remain effective only until January 1 of the second year following the year in which such adjustment is made. Nothing in this section shall preclude the judges of the El Dorado County Municipal Court District from exercising their powers in accordance with Section 72150.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

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

This act establishes a municipal court and joint superior and municipal court administration within El Dorado County. In order to provide for the orderly and efficient administration of justice in the County of El Dorado, and to make this program operational at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 639

An act to amend Section 11161 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 11161 of the Health and Safety Code is amended to read:

11161. (a) Prescription blanks shall be issued by the Department of Justice in serially numbered groups of not more than 100 forms each in triplicate, and shall be furnished to any practitioner authorized to write a prescription for controlled substances classified in Schedule II. The Department of Justice may charge a fee for the prescription blanks, not to exceed the actual costs of printing and distribution. The prescription blanks shall not be transferable. The Department of Justice shall not, during any 30-day period, issue more than 100 triplicate prescription blanks to any authorized practitioner, until written justification has been received and approved by the Department of Justice. Any person possessing a triplicate prescription blank otherwise than as provided in this section is guilty of a misdemeanor.

(b) When a practitioner is named in a warrant of arrest or is charged in an accusatory pleading with a felony violation of Section 11153, 11154, 11156, 11157, 11170, 11173, 11350, 11351, 11352, 11353, 11353.5, 11377, 11378, 11378.5, 11379, 11379.5, or 11379.6, the court in which the accusatory pleading is filed or the magistrate who issued the warrant of arrest shall, upon the motion of a law enforcement agency which is supported by reasonable cause, issue an order which requires the practitioner to surrender to the clerk of the court all triplicate prescription blanks in the practitioner's possession at a time set in the order and shall direct the Department of Justice to withhold prescription blanks from the practitioner. The law enforcement agency obtaining the order shall notify the Department of Justice of this order. Except as provided in subdivisions (c) and (f) of this section, the order shall remain in effect until further order of the court. Any practitioner possessing prescription blanks in violation of the order is guilty of a misdemeanor.

(c) The order provided by subdivision (b) shall be vacated if the court or magistrate finds that the underlying violation or violations are not supported by reasonable cause at a hearing held within two court days after the practitioner files and personally serves upon the prosecuting attorney and the law enforcement agency that obtained the order, a notice of motion to vacate the order with any affidavits on which the practitioner relies. At the hearing, the burden of proof,

by a preponderance of the evidence, is on the prosecution. Evidence presented at the hearing shall be limited to the warrant of arrest with supporting affidavits, the motion to require the defendant to surrender all triplicate prescription blanks with supporting affidavits, the sworn complaint together with any documents or reports incorporated by reference thereto which if based on information and belief state the basis for the information, or any other documents of similar reliability as well as affidavits and counter affidavits submitted by the prosecution and defense. Granting of the motion to vacate the order is no bar to prosecution of the alleged violation or violations.

(d) The defendant may elect to challenge the order issued under subdivision (b) at the preliminary examination. At that hearing, the evidence shall be limited to that set forth in subdivision (c) and any other evidence otherwise admissible at the preliminary examination.

(e) If the practitioner has not moved to vacate the order issued under subdivision (b) of this section by the time of the preliminary examination and he or she is held to answer on the underlying violation or violations, the practitioner shall be precluded from afterwards moving to vacate the order. If the defendant is not held to answer on the underlying charge or charges at the conclusion of the preliminary examination, the order issued under subdivision (b) shall be vacated.

(f) Notwithstanding subdivision (e), any practitioner who is diverted pursuant to Chapter 2.5 (commencing with Section 1000) of Title 7 of Part 2 of the Penal Code may file a motion to vacate the order issued under subdivision (b).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 640

An act to amend Sections 4462 and 40000.7 of, and to add Section 4462.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 4462 of the Vehicle Code is amended to read:

4462. (a) The driver of a motor vehicle shall present the registration or identification card or other evidence of registration of

any or all vehicles under his immediate control for examination upon demand of any peace officer.

(b) No person shall display upon a vehicle, nor present to any peace officer, any registration card, identification card, temporary receipt, license plate, device issued pursuant to Section 4853, or permit not issued for such vehicle or not otherwise lawfully used thereon under this code.

SEC. 2. Section 4462.5 is added to the Vehicle Code, to read:

4462.5. Every person who commits a violation of subdivision (b) of Section 4462, with intent to avoid compliance with vehicle registration requirements of Article 1 (commencing with Section 4000) of Chapter 1 or Article 1 (commencing with Section 5600) of Chapter 2, is guilty of a misdemeanor.

SEC. 3. Section 40000.7 of the Vehicle Code is amended to read:

40000.7. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 2416, relating to regulations for emergency vehicles.

(b) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(c) Section 2800.1, relating to fleeing from a peace officer.

(d) Section 2801, relating to failure to obey a firefighter's lawful order.

(e) Section 2803, relating to unlawful vehicle or load.

(f) Section 2813, relating to stopping for inspection.

(g) Subdivision (b) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

(h) Section 4462.5, relating to deceptive or false evidence of vehicle registration.

(i) Section 4463.5, relating to deceptive or facsimile license plates.

(j) Section 5105.5, relating to environmental license plates.

(k) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

(*l*) Section 5753, relating to delivery of certificates of ownership and registration when committed by a dealer or any person while a dealer within the preceding 12 months.

(m) Section 5901, relating to dealers and lessor-retailers giving notice.

(n) Section 5901.1, relating to lessors giving notice and failure to pay fee.

(o) Section 8802, relating to the return of canceled, suspended, or revoked certificates of ownership, registration cards, or license plates, when committed by any person with intent to defraud.

(p) Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 641

An act to amend Section 48918 of the Education Code, relating to schools.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 48918 of the Education Code is amended to read:

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to the following:

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays of the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall require that the pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the governing board.

A decision of the governing board whether to expel a pupil shall be made within 10 schooldays following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters

shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district which relate to the alleged violation; and the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

(c) Notwithstanding the provisions of Section 54593 of the Government Code and Section 35145 of this code, the governing board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled.

If the governing board or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil shall also be allowed to attend the closed deliberations.

(d) In lieu of conducting an expulsion hearing itself, the governing board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board may also appoint an impartial adminstrative panel of three or more certificated persons, none of whom shall be members of the board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after

consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the governing board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.

(g) A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

(h) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by notice of the right to appeal the expulsion to the county board of education.

(j) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a

nonprivileged, disclosable public record.

The expulsion order and the causes therefor shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

CHAPTER 642

An act to amend Section 1328 of the Penal Code, relating to subpoenas in criminal proceedings.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1328 of the Penal Code is amended to read:

1328. A subpoena may be served by any person, except that the defendant may not serve a subpoena in the criminal action to which he or she is a party, but a peace officer must serve in his or her county any subpoena delivered to him or her for service, either on the part of the people or of the defendant, and must, without delay, make a written return of the service, subscribed by him or her, stating the time and place of service. The service is made by delivering a copy of the subpoena to the witness personally. When service is to be made on a minor, service shall be made on the minor's parent, guardian, conservator, or similar fiduciary, or if one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or with whom the minor resides or by whom the minor is employed, unless the parent, guardian, conservator, or fiduciary or other specified person is the defendant, and on the minor if the minor is 12 years of age or older. The person so served shall have the obligation of producing the minor at the time and place designated in the subpoena. A willful failure to produce the minor is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure. The person so served shall be allowed the fees and expenses that are provided for subpoenaed witnesses.

Whenever any peace officer designated in Section 830 is required as a witness before any court or magistrate in any action or proceeding in connection with a matter regarding an event or transaction which he or she has perceived or investigated in the course of his or her duties, a subpoena requiring his or her attendance may be served either by delivering a copy to such peace officer personally or by delivering two copies to his or her immediate superior or agent designated by his or her immediate superior to receive such service. If service is made upon the immediate superior or agent designated by the immediate superior, the immediate

superior or such agent shall deliver a copy of the subpoena to the peace officer as soon as possible and in no event later than such time as will enable the peace officer to comply with the subpoena.

If the immediate superior or his or her designated agent upon whom service is attempted to be made knows he or she will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, such immediate superior or agent may refuse to accept service of process and is excused from any duty, liability, or penalty arising in connection with such service, upon notifying the server of such fact.

If an immediate superior or his or her agent is tendered service of a subpoena less than five working days prior to the date of hearing, and he or she is not reasonably certain he or she can complete the service, he or she may refuse acceptance.

If an immediate superior or agent upon whom service has been made, subsequently determines that he or she will be unable to deliver a copy of the subpoena to the peace officer within such time as will allow the peace officer to comply with the subpoena, the immediate superior or agent shall notify the server or his or her office or agent not less than 48 hours prior to the hearing date indicated on the subpoena, and is thereby excused from any duty, liability, or penalty arising because of his or her failure to deliver a copy of the subpoena to the peace officer. The server, so notified, is therewith responsible for preparing the written return of service and for notifying the originator of the subpoena if required.

CHAPTER 643

An act to amend Section 14104.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14104.5 of the Welfare and Institutions Code is amended to read:

14104.5. Notwithstanding any other provision of law, the director shall by regulation adopt such procedures as are necessary for the review of a grievance or complaint concerning the processing or payment of money alleged by a provider of services to be payable by reason of any of the provisions of this chapter. After complying with these procedures, if the provider is not satisfied with the director's decision on his or her claim, he or she may not later than one year after receiving notice of the decision, seek appropriate judicial remedies. This section shall be the exclusive remedy available to the

provider of services for moneys alleged to be payable by reason of this chapter.

This section shall not apply to those grievances or complaints arising from the findings of an audit or examination made by or on behalf of the director pursuant to Sections 10722 and 14170. Article 5.3 (commencing with Section 14170) shall govern the grievances or complaints.

CHAPTER 644

An act to add Section 34501.6 to the Vehicle Code, relating to hazardous materials.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 34501.6 is added to the Vehicle Code, to read:

34501.6. (a) If the department adopts regulations pursuant to Section 34501.1 regarding electronic recording devices designed to monitor the hours of service of drivers, the department shall, when adopting these regulations, give the highest priority to the installation of the devices in tank trucks or truck trailers which are used to haul inhalation hazards.

(b) For purposes of this section, "inhalation hazard" means any material defined as "Poison A" pursuant to Section 173.326 of Title 49 of the Code of Federal Regulations or for which a "Poison-Inhalation Hazard" or "Inhalation Hazard" shipping paper description is required pursuant to paragraph (4) of subsection (k) of Section 172.203 of Title 49 of the Code of Federal Regulations.

SEC. 2. Section 1 of this act shall become operative only if Assembly Bill No. 3106 is enacted and becomes effective January 1, 1989, and adds Section 34501.1 to the Vehicle Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 645

An act to amend Section 5004.1 of the Vehicle Code, relating to vehicles.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 5004.1 of the Vehicle Code is amended to read:

5004.1. (a) An owner of any vehicle eligible for registration pursuant to Section 5004 may, after the requirements for the registration of the vehicle have been complied with and with the approval of the department, utilize license plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date license plate is legible and serviceable, as determined by the department, in lieu of the license plates otherwise required by this code. The department may consult with an organization of old car hobbyists in determining whether the date of year of the license plate to be used corresponds to the model year date when the vehicle was manufactured.

(b) A fee of thirty-five dollars ($35) shall be charged for the application for use of the special plates.

(c) In addition to the regular renewal fee for the vehicle for which the plates are authorized, the applicant for a renewal of the plates shall be charged an additional fee of ten dollars ($10). When payment of a regular vehicle renewal fee is not required by this code, the holder of any license plates with a date corresponding to the model year may retain the plates upon payment of an annual fee of twenty dollars ($20), which shall be due at the expiration of the registration year of the vehicle to which the plate was last assigned under this section.

(d) Whenever any person who has been authorized to utilize the special license plates applies to the department for transfer of the plates to another vehicle, a transfer fee of twelve dollars ($12) shall be charged in addition to all other appropriate fees.

SEC. 2. This act shall become operative on July 1, 1989.

CHAPTER 646

An act to amend Sections 11834.11 and 11834.12 of, to repeal Section 11834.16 of, and to add Article 3 (commencing with Section 11834.30) and Article 4 (commencing with Section 11834.35) to Chapter 7.5 of Part 2 of Division 10.5 of, the Health and Safety Code, relating to alcohol recovery facilities.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 11834.11 of the Health and Safety Code is amended to read:

11834.11. As used in this chapter, "alcoholism recovery facility" means any facility, place, or building which is maintained and operated exclusively to provide 24-hour residential nonmedical alcoholism recovery services.

SEC. 2. Section 11834.12 of the Health and Safety Code is amended to read:

11834.12. No person, firm, partnership, association, corporation, or local governmental entity shall operate, establish, manage, conduct, or maintain an alcoholism recovery facility in this state without obtaining a current valid license issued pursuant to this chapter.

SEC. 3. Section 11834.16 of the Health and Safety Code is repealed.

SEC. 4. Article 3 (commencing with Section 11834.30) is added to Chapter 7.5 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 3. Offenses

11834.30. (a) The director may bring an action to enjoin the violation of Section 11834.12 in the superior court in and for the county in which the violation occurred. Any proceeding under this section shall conform to the requirements of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss.

(b) With respect to any and all actions brought pursuant to this section alleging actual violation of Section 11834.12, the court shall, if it finds the allegations to be true, issue its order enjoining the alcoholism recovery facility from continuance of the violation.

11834.31. (a) Notwithstanding any other provision of this chapter, any person who violates Section 11834.12 may be assessed by the department an immediate civil penalty in the amount of two

hundred dollars ($200) per day of the violation.

(b) The civil penalty authorized in subdivision (a) shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the operator seeks licensure and the licensure application is denied and the operator continues to operate the unlicensed facility.

(c) An operator may appeal the assessment to the director.

11834.32. (a) In addition to the penalties of suspension or revocation of a license issued under this chapter, the department may also levy a civil penalty.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day.

(c) Any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.

(d) Any facility that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate penalty of one hundred fifty dollars ($150) for each day the violation continues until the deficiency is corrected.

(e) Prior to the assessment of any civil penalty, the facility shall have a minimum of 30 days to correct the deficiency.

11834.33. The civil and administrative remedies available to the department pursuant to this article are not exclusive, and may be sought and employed in any combination deemed advisable by the department to enforce this chapter.

SEC. 5. Article 4 (commencing with Section 11834.35) is added to Chapter 7.5 of Part 2 of Division 10.5 of the Health and Safety Code, to read:

Article 4. Suspension and Revocation

11834.35. (a) The director may suspend or revoke any license issued under the provisions of this chapter, or deny an application to renew a license or to modify the terms and conditions of a license, upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of any provision of this chapter or regulations adopted pursuant to this chapter.

(2) Repeated violation by the licensee of any of the provisions of this chapter or regulations adopted pursuant to this chapter.

(3) Aiding, abetting, or permitting the violation of, or any

repeated violation of, any of the provisions set forth in paragraph (1) or (2).

(4) Conduct in the operation of an alcoholism recovery facility which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

(5) Misrepresentation of any material fact in obtaining the alcoholism recovery facility license.

(b) The director may temporarily suspend any license prior to any hearing when, in the opinion of the director, the action is necessary to protect residents of the alcoholism recovery facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

11834.36. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. Notwithstanding Section 11502.1 of the Government Code, the Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly revocations where the health and safety of the residents are in question.

11834.37. Any license suspended pursuant to this chapter may be reinstated pursuant to Section 11522 of the Government Code.

11834.38. (a) The withdrawal of an application for a license after it has been filed with the department shall not, unless the department consents in writing to the withdrawal, deprive the department of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any

of these grounds.

(b) The suspension, expiration, or forfeiture by operation of law of a license issued by the department, or its suspension, forfeiture, or cancellation by order of the department or by order of a court of law, or its surrender without the written consent of the department, shall not deprive the department of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any ground provided by law.

CHAPTER 647

An act to amend Sections 704.1, 934, 938.3, 1181, and 1184 of the Unemployment Insurance Code, relating to unemployment compensation.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 704.1 of the Unemployment Insurance Code is amended to read:

704.1. (a) Notwithstanding any other provision of this division, the director may terminate any elective coverage agreement under this article if he or she finds that any of the following conditions exist:

(1) The employing unit or self-employed individual is not normally and continuously engaged in a regular trade, business, or occupation.

(2) The employing unit or self-employed individual has discontinued the regular trade, business, or occupation.

(3) The regular trade, business, or occupation of the employing unit or self-employed individual is seasonal in its operations.

This paragraph shall not apply to any public entity.

(4) The employing unit or self-employed individual has failed to make a return or to pay contributions within the time required by this division and there is an unpaid amount of contributions owing by the employing unit or self-employed individual.

(5) The employing unit or any officer or agent of or person having charge of the affairs of the employing unit, or the self-employed individual is convicted of any violation pursuant to Chapter 10 (commencing with Section 2101). For the purposes of this paragraph, a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction irrespective of whether an order granting probation or other order is made suspending the imposition of the sentence or whether sentence is imposed but execution thereof is suspended.

(b) The director shall give to the employing unit, or to the self-employed individual, a written notice pursuant to Section 1206 of the director's termination of the elective coverage agreement under this section. The date of termination may be the end of the calendar quarter immediately preceding the existence of any condition specified in subdivision (a), or the end of any subsequent calendar quarter thereafter, as determined by the director. In no event shall the termination of any elective agreement pursuant to this section entitle the employing unit or self-employed individual to any refund of contributions.

Any termination of elective coverage shall not affect the liability of the employing unit or self-employed individual for any contributions due, owing, and unpaid to the department.

(c) Sections 1222, 1223, and 1224 shall apply to matters arising under this section.

SEC. 2. Section 934 of the Unemployment Insurance Code is amended to read:

934. "Wages" does not include any payment made to, or on behalf of, an employee or his or her beneficiary:

(a) From or to a trust described in Section 401(a) of the Internal Revenue Code which is exempt from tax under Section 501(a) of that code at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust.

(b) Under or to an annuity plan which, at the time of the payment, is a plan described in Section 403(a) of the Internal Revenue Code.

(c) Under a simplified employee pension, as defined in Section 408(k)(1) of the Internal Revenue Code, other than any contributions described in Section 408(k)(6) of the Internal Revenue Code.

(d) Under or to an annuity contract described in Section 403(b) of the Internal Revenue Code, other than a payment for the purchase of the contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise.

(e) Under or to an exempt governmental deferred compensation plan, as defined in Section 3121(v)(3) of the Internal Revenue Code.

(f) To supplement pension benefits under a plan or trust described in any of the foregoing provisions of this section to take into account some portion or all of the increase in the cost of living, as determined by the Secretary of Labor, since retirement, but only if the supplemental payments are under a plan which is treated as a welfare plan under Section 3(2)(B)(ii) of the Employee Retirement Income Security Act of 1974.

SEC. 3. Section 938.3 of the Unemployment Insurance Code is amended to read:

938.3. "Wages" does not include any payment made, or benefit furnished to, or for the benefit of, an employee, for any of the

following:

(a) An educational assistance program if, at the time of payment or the furnishing, it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 127 of the Internal Revenue Code.

(b) A dependent care assistance program if, at the time of payment or the furnishing, it is reasonable to believe that the employee will be able to exclude the payment or benefit from income under Section 129 of the Internal Revenue Code.

(c) Any benefit provided to or on behalf of an employee if at the time the benefit is provided it is reasonable to believe that the employee will be able to exclude the benefit from income under Section 74(c), 117, or 132 of the Internal Revenue Code.

(d) Any benefit under a cafeteria plan, as described in Section 125 of the Internal Revenue Code, if the benefit is excludable from wages pursuant to any other provision of this article, except Section 930.

SEC. 4. Section 1181 of the Unemployment Insurance Code is amended to read:

1181. Interest shall be allowed and paid only to the extent that interest and penalties collected under this division are available therefor upon any overpayment of contributions at the adjusted rate per month, or fraction thereof, established pursuant to Section 19269 of the Revenue and Taxation Code, from the date of overpayment to the date of the allowance of the refund or credit, but no interest shall be allowed if the director determines that any overpayment was made intentionally or by reason of negligence on the part of the employing unit.

SEC. 5. Section 1184 of the Unemployment Insurance Code is amended to read:

1184. If any refund or portion thereof is erroneously made, the director shall assess that amount to the employing unit or other person to whom the refund was made, together with any interest paid thereon, but no assessment shall be made with respect to any amount of worker contributions which the employer has refunded to his or her employees. The amount of the assessment shall bear interest at the adjusted annual rate and by the method established pursuant to Section 19269 of the Revenue and Taxation Code commencing 30 days after the service of notice of the assessment, if not paid within that period, until the date of repayment. The director shall give the employing unit against whom the assessment is made a written notice of the assessment pursuant to Section 1206.

The notice shall be given within three years from the date the refund was made unless the employing unit waives this limitation period or consents to its extension. Sections 1135, 1136, 1222, 1223, and 1224 shall apply to assessments made under this section. The director shall collect the amount of any assessment made under this section in the same manner that other assessments are collected.

CHAPTER 648

An act to add Sections 741 and 741.1 to the Public Utilities Code, relating to telephones.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Pursuant to its program of partially deregulating the telephone service industry, the Federal Communications Commission has authorized individuals and small businesses which are not public utility telephone corporations to engage in the installation and operation of coin-activated telephones for public use.

(2) Accordingly, an increasing number of these individuals and small businesses have acquired and are operating their own coin-activated telephones for public use as an alternative to the installation, maintenance, and operation of coin-activated telephones by the local telephone corporation, including the provision of operator-assisted services by contract with providers of the service other than a telephone corporation.

(3) Other nonpublic utility providers of telephone services, including, but not limited to, hotels, motels, hospitals, and universities, which impose charges on users of these services, may also provide operator-assisted service by contract with providers of the service other than a telephone corporation.

(4) Some of these alternative operator-assisted services have resulted in complaints by customers regarding excessive charges for these services and a lack of information as to the applicable charges for operator-assisted services.

(b) It is, therefore, the intent of the Legislature in enacting Sections 741 and 741.1 of the Public Utilities Code to require notification to those customers of the rates and charges applicable to operator-assisted telephone services furnished through nonpublic utility owned or operated coin-activated telephones and through other nonpublic utility telephone services for which charges are imposed.

SEC. 2. Section 741 is added to the Public Utilities Code, to read:

741. Every owner or operator of coin-activated telephones available for public use, other than a telephone corporation, which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall cause to be posted on or near the telephone equipment so as to be easily seen by telephone customers all of the following information:

(a) The name of the provider of operator-assisted services and a

toll-free telephone number for contacting that provider.

(b) The applicable charges for each available operator-assisted service.

(c) That the provider of operator-assisted services will respond to inquiries concerning the terms and conditions of any available service.

SEC. 3. Section 741.1 is added to the Public Utilities Code, to read:

741.1. Every nonpublic utility provider of telephone services, including, but not limited to, a hotel, motel, hospital, or university, which imposes charges on users of the services and which, as part of the service furnished, provides operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission providing for the furnishing of operator-assisted services shall cause to be posted on or near the telephone equipment so as to be easily seen by users of the service all of the following information:

(a) The name of the provider of operator-assisted services and a toll-free telephone number for contacting that provider.

(b) The applicable charges for each available operator-assisted service.

(c) That the provider of operator-assisted services will respond to inquiries concerning the terms and conditions of any available service.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 649

An act to amend Section 6891 of the Public Resources Code, relating to state lands.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 6891 of the Public Resources Code is amended to read:

6891. The commission may issue a prospecting permit, under such rules and regulations as it may prescribe, for lands which are not known mineral lands, to any qualified applicant, upon the payment to the commission of a reasonable charge, as determined by the commission, of not less than one dollar ($1) per acre for each acre in area embraced within the boundaries of the lands described in the

permit. No permit shall be issued for any lands which have been classified by the commission prior to the application as containing commercially valuable mineral deposits. Upon receipt of an application for a permit, the commission shall determine whether the lands described therein are known mineral lands. If the commission determines that the lands are known mineral lands, it shall thereupon so classify them and shall reject the application for a prospecting permit.

Subject to such terms and conditions as the commission may determine to be in the best interest of the state, a prospecting permit shall give to the permittee the exclusive right for a period not exceeding two years to prospect for minerals other than oil and gas or other hydrocarbon substances upon lands wherein the mineral deposits belong to the state.

The commission may, in its discretion, extend the term of any permit for a period not exceeding one year, but the term of any permit, including extensions, shall be limited to a total of three years.

CHAPTER 650

An act to amend Section 21263 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 21263 of the Government Code is amended to read:

21263. Upon the death of a patrol, state peace officer/firefighter, or state safety member whose retirement for service or disability is effective on or after the operative date of this section, a monthly allowance derived from employer contributions equal to a percentage of the amount of his or her retirement allowance as it was at his or her death based on service credited to him or her as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life or until remarriage. The percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon the death or remarriage of the surviving spouse, the allowance shall be paid collectively to every unmarried child of the deceased member who has not attained age 18, or who is disabled by a condition which disabled that child prior to attaining age 18 and which has continued without interruption after age 18, until the

disability ceases. If, at the time of the retired member's death, there is no eligible surviving spouse or children, the allowance shall be paid to a parent, or collectively to parents, of the deceased member dependent upon him or her for support. If, on the effective date of his or her retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of service retirements subject to this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his or her retirement and ending on the date of his or her death and, for purposes of disability retirements subject to this section, means a husband or wife who was married to the member on the date of his or her retirement and continuously to the date of his or her death.

CHAPTER 651

An act to amend Sections 14409 and 14456 of, to add Sections 14254.5, 14257, and 14767 to, the Financial Code, relating to credit unions.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14254.5 is added to the Financial Code, to read:

14254.5. (a) Within 10 business days of opening, closing, or relocating a branch office, a credit union shall notify the commissioner in writing of the location, including the mailing address, of the branch office.

(b) On or before March 1, 1989, every credit union shall notify the commissioner in writing of the location, including the mailing address, of existing branch offices.

SEC. 2. Section 14257 is added to the Financial Code, to read:

14257. Investigation and examination reports prepared by the commissioner's duly designated representatives shall not be public records. The reports may be disclosed to the officers, directors, members of the supervisors committee, members of the credit committee and key management personnel of a credit union which is the subject of a report for the purpose of corrective action by those persons. The disclosure shall not operate as a waiver of the exemption specified in subdivision (d) of Section 6254 of the Government Code.

SEC. 3. Section 14409 of the Financial Code is amended to read:

14409. Every credit union shall obtain adequate bond or insurance coverage for each officer, credit manager and employee

having control of or access to funds or securities owned by or pledged with a credit union commensurate with risks involved.

The commissioner may adopt regulations setting forth guidelines with respect to the minimum amount of the bond or insurance coverage deemed adequate. These regulations may be based upon the gross assets of the credit union and may contain a formula or schedule for the calculation of minimum bond or insurance coverage.

SEC. 4. Section 14456 of the Financial Code is amended to read:

14456. Unless the bylaws expressly reserve any or all of the following duties to the members, the directors have all of the following special duties:

(a) To act upon all applications for membership. The directors may delegate the power to approve applications for new membership to: (1) the chairman of a membership committee or to an executive committee; or (2) any officer, director, committee member, or employee, pursuant to a written membership plan adopted by the board of directors, provided the board of directors reviews at least quarterly any membership application approved by an officer, director, committee member, or employee.

(b) To expel members for any of the following causes:

(1) Conviction of a criminal offense involving moral turpitude.

(2) Failure to carry out contracts, agreements or obligations with the credit union.

(3) Refusal to comply with the provisions of this division or of the bylaws.

Any members who are expelled by the board of directors have the right to appeal therefrom to the members, in which event, after hearing, the order of suspension may be revoked by a two-thirds vote of the members present at a special meeting to consider the matter.

(c) To determine from time to time the interest rate on obligations with members and to authorize the payment of interest refunds to borrowing members.

(d) To fix the maximum number of shares which may be held by, and, in accordance with Section 15100, establish the maximum amount of obligations which may be entered into with, any one member.

(e) To declare dividends on shares in accordance with the credit union's written capital structure policy and to determine the interest rate or rates which will be paid on certificates for funds.

(f) To amend the bylaws, except where membership approval is required.

(g) To fill vacancies in the board of directors or credit committee, and to temporarily fill vacancies caused by the suspension of any member of the board of directors, or any or all members of the credit committee, pending a meeting of the members to determine whether to affirm such suspension and vacate the office, or to reinstate such member or members.

(h) To direct the deposit or investment of funds, except loans to

members.

(i) To designate alternate members of the credit committee who shall serve in the absence or inability of the regular members to perform their duties.

(j) To perform or authorize any action not inconsistent with law or regulation and not specifically reserved by the bylaws for the members, and to perform such other duties as the bylaws may prescribe.

SEC. 5. Section 14767 is added to the Financial Code, to read:

14767. It is unlawful for any person willfully to make any untrue statement of a material fact in any document filed with the commissioner under this division, or willfully to omit to state in any document any material fact which is required to be stated therein.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 652

An act to amend Sections 43433 and 45553 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 43433 of the Revenue and Taxation Code is amended to read:

43433. At the sale the property shall be sold by the board, or by its authorized agent, in accordance with law and the notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the taxpayer.

SEC. 2. Section 45553 of the Revenue and Taxation Code is amended to read:

45553. At the sale the property shall be sold by the board, or by its authorized agent, in accordance with law and the notice, and the board shall deliver to the purchaser a bill of sale for the personal property and a deed for any real property sold. The bill of sale or deed vests title in the purchaser. The unsold portion of any property seized may be left at the place of sale at the risk of the fee payer.

SEC. 3. The State Board of Equalization shall prepare and submit to the Legislature by December 1, 1989, a report on changes needed

to improve the due process procedures applicable to the seizure and sale of real property for purposes of collecting delinquent fees or taxes. The report shall include, but not be limited to, the changes needed to meet the requirements specified in the United States Supreme Court case of Mennonite Board of Missions v. Adams, 77 L. Ed. 2d 180, regarding the issuance of adequate notice to the parties of interest.

CHAPTER 653

An act to amend and renumber Sections 13142.4 and 13142.5 of, and to add Article 5 (commencing with Section 13159.7) to Chapter 1 of Part 2 of Division 12 of, the Health and Safety Code, relating to fire protection.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Article 5 (commencing with Section 13159.7) is added to Chapter 1 of Part 2 of Division 12 of the Health and Safety Code, to read:

Article 5. California Fire and Arson Training Act

13159.7. This article shall be known and may be cited as the California Fire and Arson Training Act.

13159.9. The State Fire Marshal shall:

(a) Jointly, with the California Professional Firefighters, promote participation in, sponsor, and administer the California Firefighter Joint Apprenticeship Program as the preemployment recruitment, selection, and training system to be utilized for entry level firefighters.

(b) Establish advisory committees or panels, as necessary, to assist the State Fire Marshal in carrying out his or her function under this article.

SEC. 2. Section 13142.4 of the Health and Safety Code is amended and renumbered to read:

13159.8. The State Fire Marshal, with policy guidance and advice from the State Board of Fire Services, shall:

(a) Establish and validate recommended minimum standards for fire protection personnel and fire protection instructors at all career levels.

(b) Develop course curricula for arson, fire technology, and apprenticeship training for use in academies, colleges, and other educational institutions.

(c) Develop, validate, update, copyright, and maintain security

over a complete series of promotional examinations based on the minimum standards established pursuant to subdivision (a).

(d) Have the authority to make the examinations developed pursuant to subdivision (c) available to any agency of the state, to any political subdivision within the state, or to any other testing organization, as he or she deems appropriate.

(e) Establish any fees which are necessary to implement this section. However, the State Fire Marshal shall not establish or collect any fees for training classes provided by the State Fire Marshal to fire protection personnel relating to state laws and regulation which local fire services are authorized or required to enforce.

(f) Promote, sponsor, and administer the California Fire Academy System.

(g) Establish procedures for seeking, accepting, and administering gifts and grants for use in implementing the intents and purposes of the California Fire and Arson Training Act.

(h) The recommended minimum standards established pursuant to subdivision (a) shall not apply to any agency of the state or any agency of any political subdivision within the state unless that agency elects to be subject to these standards.

SEC. 3. Section 13142.5 of the Health and Safety Code is amended and renumbered to read:

13159.10. There is established in the State Treasury the California Fire and Arson Training Fund. All revenue collected pursuant to Section 13159.8 shall be paid into this fund and these moneys shall be available when appropriated by the Legislature for the office of the State Fire Marshal to carry out the provisions of this article.

CHAPTER 654

An act to amend Section 263.6 of the Streets and Highways Code, relating to highways.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 263.6 of the Streets and Highways Code is amended to read:

263.6. The state scenic highway system shall also include:

Route 101 from:

(a) Route 1 near El Rio to Route 46 near Paso Robles.

(b) Route 156 near Prunedale northeasterly to Route 156.

(c) A point in Marin County opposite San Francisco to Route 1 near Marin City.

(d) Route 37 near Ignacio to Route 37 near Novato.

(e) Route 20 near Calpella to Route 20 near Willits.

(f) Route 1 near Leggett to Route 199 near Crescent City.

(g) Route 197 near Fort Dick to the Oregon state line.

(h) Route 27 (Topanga Canyon Boulevard) to Beach Road at Gaviota State Park.

Route 108 from Route 49 near Sonora to Route 395.

Route 111 from:

(a) Bombay Beach in Salton Sea State Park to Route 195 near Mecca.

(b) Route 74 near Palm Desert to Route 10 near Whitewater.

Route 116 from Route 101 near Cotati to Route 1 near Jenner.

Route 118 from Route 23 to DeSoto Avenue near Browns Canyon.

Route 120 from:

(a) Route 49 near Chinese Camp to Route 49 near Moccasin.

(b) The east boundary of Yosemite National Park to Route 395 near Mono Lake.

Route 121 from:

(a) Route 37 near Sears Point to Route 12 near Sonoma.

(b) Route 221 near Napa State Hospital to near the vicinity of Trancas Street in northeast Napa.

Route 125 from Route 94 near Spring Valley to Route 8 near La Mesa.

Route 126 from Route 150 near Santa Paula to Route 5 near Castaic.

CHAPTER 655

An act to amend Sections 1, 2, 3, 9.3, and 10 of, and to add Section 11.5 to, the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953), relating to the San Benito County Water Conservation and Flood Control District.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 1. This act shall be known and may be cited as the San Benito County Water District Act.

SEC. 2. Section 2 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 2. A district is hereby created to be called the San Benito County Water District. The district shall consist of all of the territory within the County of San Benito.

SEC. 3. Section 3 of the San Benito County Water Conservation

and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 3. As used in this act the following words shall have the respective meanings stated:

(a) "District" means the San Benito County Water District.

(b) "Board" means the board of directors of the district.

(c) "County" means the County of San Benito, State of California.

(d) "United States" means the United States of America and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the United States of America.

(e) "State of California" includes the State of California and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the State of California.

(f) "Work or works" includes the dams and damsites, reservoirs and reservoir sites, conduits and other facilities useful in the control, conservation, diversion and transmission of waters and all land, property, franchises, easements, rights-of-way, and privileges necessary or useful to operate or maintain any of the foregoing.

(g) "Elector" means any person who qualifies under Section 1 of Article II of the Constitution of this state. "Voter" means any elector who is registered under the provisions of the Elections Code of the State of California.

(h) "Flood and storm waters" means in excess of the seasonal normal flow of the streams in which they occur that are not usable beneficially as part of the ordinary flow of such streams and which, if not intercepted, would escape from the County of San Benito.

(i) "May" is permissive, and "shall" is mandatory.

SEC. 4. Section 9.3 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 9.3. Each director shall receive compensation in an amount not to exceed one hundred dollars ($100) per day for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his or her duties required or authorized by the board.

SEC. 5. Section 10 of the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953) is amended to read:

Sec. 10. The district attorney, county surveyor, county assessor, county tax collector, county auditor, and county treasurer of the County of San Benito, and their successors in office, and all their assistants, deputies, clerks, and employees, and all other officers of San Benito County, their assistants, deputies, clerks and employees, shall be ex officio officers, assistants, deputies, clerks, and employees, respectively, of the San Benito County Water District and shall respectively perform, unless otherwise provided by the board, the same various duties for the district as for San Benito County, in order

to carry out this act; provided, however, that if the county surveyor is a registered civil engineer and is employed by the board of directors to supervise the engineering work of the district, the board may provide for compensation for his or her services hereunder payable from the funds of the district, in addition to the person's salary as county surveyor of San Benito County.

SEC. 6. Section 11.5 is added to the San Benito County Water Conservation and Flood Control District Act (Chapter 1598 of the Statutes of 1953), to read:

Sec. 11.5. Violation of any provision of this act is a misdemeanor punishable by a fine of not more than five hundred dollars ($500), or by imprisonment in the county jail for a term not exceeding six months, or by both that fine and imprisonment. Any such violation constitutes a separate offense for each day during any portion of which the violation occurs.

The district may pursue any and all actions available at law or in equity to enforce the terms of this act or to enjoin violations thereof.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction and because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 656

An act to amend Section 11034 of the Government Code, relating to state officers.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 11034 of the Government Code is amended to read:

11034. Effective July 1, 1984, the Lieutenant Governor, Attorney General, Controller, Secretary of State, Superintendent of Public Instruction, Treasurer, and the Chief Justice of California shall each receive, in addition to his or her salary, and his or her actual necessary traveling expenses, an expense allowance for all ordinary and necessary expenses incurred in carrying out the functions and duties of his or her office, including ordinary and necessary expense incurred for entertainment, of not exceeding ten thousand dollars ($10,000) per year.

CHAPTER 657

An act to amend Sections 2964, 2970, and 11105.1 of the Penal Code, relating to mentally disordered offenders.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 2964 of the Penal Code is amended to read:

2964. (a) The treatment required by Section 2962 shall be inpatient unless the State Department of Mental Health certifies to the Board of Prison Terms that there is reasonable cause to believe the parolee can be safely and effectively treated on an outpatient basis, in which case the Board of Prison Terms shall permit the State Department of Mental Health to place the parolee in an outpatient treatment program specified by the State Department of Mental Health. Any prisoner who is to be required to accept treatment pursuant to Section 2962 shall be informed in writing of his or her right to request a hearing pursuant to Section 2966. Prior to placing a parolee in a local outpatient program, the State Department of Mental Health shall consult with the local outpatient program as to the appropriate treatment plan. Notwithstanding any other provision of law, a parolee ordered to have outpatient treatment pursuant to this section may be placed in an outpatient treatment program used to provide outpatient treatment under Title 15 (commencing with Section 1600) of Part 2, but the procedural provisions of Title 15 shall not apply. The director of an outpatient program used to provide treatment under Title 15 in which a parolee is placed may place the parolee in a secure mental health facility if the parolee can no longer be safely or effectively treated in the outpatient program, and until the parolee can be safely and effectively treated in the program. Within 15 days after placement in a secure facility the State Department of Mental Health shall conduct a hearing on whether the parolee can be safely and effectively treated in the program unless the patient or the patient's attorney agrees to a continuance, or unless good cause exists that prevents the State Department of Mental Health from conducting the hearing within that period of time. If good cause exists, the hearing must be held within 21 days after placement in a secure facility. For purposes of this section, "good cause" means the inability to secure counsel, an interpreter, or witnesses for the hearing within the 15-day time period. Before deciding to seek revocation of the parole of a parolee receiving mental health treatment pursuant to Section 2962, and return him or her to prison, the parole officer shall consult with the director of the parolee's outpatient program.

(b) If the State Department of Mental Health has not placed a parolee on outpatient treatment within 60 days after receiving

custody of the parolee or after parole is continued pursuant to Section 3001, the parolee may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing to determine whether the prisoner shall be treated as an inpatient or an outpatient. At the hearing, the burden shall be on the State Department of Mental Health to establish that the prisoner requires inpatient treatment as described in this subdivision. If the prisoner or any person appearing on his or her behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978.

SEC. 2. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the community program director in charge of the parolee's outpatient program, or the Director of Corrections shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits. The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall state the reasons necessitating the continued treatment, with accompanying affidavits specifying the conditions in Section 2962 and that treatment during the parole period, if any, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify why the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued.

SEC. 3. Section 11105.1 of the Penal Code is amended to read:

11105.1. (a) The following persons shall be furnished with state summary criminal history information when needed in the course of their duties:

(1) The director of a state hospital or other treatment facility to which a person is committed for treatment under Sections 1026 and 1370 of the Penal Code, or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(2) The community program director or the director's designee under any of the following conditions:

(A) When ordered to evaluate a defendant for the court under paragraph (2) of subdivision (a) of Section 1370 and subdivision (b) of Section 1026 of the Penal Code, or paragraph (2) of subdivision (a)

of former Section 6316 of the Welfare and Institutions Code.

(B) When ordered to provide outpatient treatment and supervision services under Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(C) When a patient is committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code.

(D) When the director or the director's designee provides evaluation, supervision, or treatment for a person under Section 2964 or 2972.

(3) The officer providing conservatorship investigation under Section 5354 of the Welfare and Institutions Code in cases where referral for conservatorship is made while the proposed conservatee is being treated under Section 1026 or 1370 of the Penal Code or Section 5250, if committed for being dangerous to others, or Section 5300, or former Section 6316 or 6321, of the Welfare and Institutions Code.

(b) In all instances pursuant to subdivision (a), the criminal history record shall be transmitted by the court with the request for evaluation or during the conservatorship investigation or with the order committing the person to a treatment facility or approving outpatient status, except that the director of a state hospital, the county mental health director, and the officer providing conservatorship investigation may receive the state summary criminal history information from the law enforcement agency that referred the person for evaluation and treatment under Section 5150 of the Welfare and Institutions Code if the person has been subsequently committed for being dangerous to others under Section 5250 of the Welfare and Institutions Code. Information obtained under this subdivision shall not be included in any document which will become part of a public record.

CHAPTER 658

An act to amend Sections 2966 and 2970 of the Penal Code, relating to mentally disordered offenders.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 2966 of the Penal Code is amended to read:

2966. (a) A prisoner may request a hearing before the Board of Prison Terms, and the board shall conduct a hearing if so requested, for the purpose of proving that the prisoner meets the criteria in Section 2962. At the hearing the burden of proof shall be on the person or agency who certified the prisoner under subdivision (d) of Section 2962. If the prisoner or any person appearing on his or her

behalf at the hearing requests it, the board shall appoint two independent professionals as provided for in Section 2978. The prisoner shall be informed at the hearing of his or her right to request a trial pursuant to subdivision (b). The Board of Prison Terms shall provide a prisoner who requests a trial, a petition form and instructions for filing the petition.

(b) A prisoner who disagrees with the determination of the Board of Prison Terms that he or she meets the criteria of Section 2962, may file in the superior court of the county in which he or she is incarcerated or is being treated a petition for a hearing on whether he or she, as of the date of the Board of Prison Terms hearing, met the criteria of Section 2962. The court shall conduct a hearing on the petition within 60 calendar days after the petition is filed, unless either time is waived by the petitioner or his or her counsel, or good cause is shown. The order of the Board of Prison Terms shall be in effect until the completion of the court proceedings. The court shall advise the petitioner of his or her right to be represented by an attorney and of the right to a jury trial. The attorney for the petitioner shall be given a copy of the petition, and any supporting documents. The hearing shall be a civil hearing; however, in order to reduce costs, the rules of criminal discovery, as well as civil discovery, shall be applicable. The standard of proof shall be beyond a reasonable doubt, and if the trial is by jury, the jury shall be unanimous in its verdict. The trial shall be by jury unless waived by both the person and the district attorney.

(c) If the Board of Prison Terms continues a parolee's mental health treatment under Section 2962 when they continue the parolee's parole under Section 3001, the procedures of this section shall only be applicable for the purpose of determining if the parolee has a severe mental disorder, and whether the parolee's severe mental disorder is not in remission or cannot be kept in remission without treatment.

SEC. 2. Section 2970 of the Penal Code is amended to read:

2970. Not later than 180 days prior to the termination of parole, or release from prison if the prisoner refused to agree to treatment as a condition of parole as required by Section 2962, unless good cause is shown for the reduction of that 180-day period, if the prisoner's severe mental disorder is not in remission or cannot be kept in remission without treatment, the medical director of the state hospital which is treating the parolee, or the county mental health director in charge of the parolee's outpatient program, or the Director of Corrections shall submit to the district attorney of the county in which the parolee is receiving outpatient treatment, or for those in prison or in a state mental hospital the district attorney of the county of commitment, his or her written evaluation on remission. If requested by the district attorney, the written evaluation shall be accompanied by supporting affidavits. The district attorney may then file a petition with the superior court for continued involuntary treatment for one year. The petition shall be

accompanied by affidavits specifying that treatment, while the prisoner was released from prison on parole, has been continuously provided by the State Department of Mental Health either in a state hospital or in an outpatient program. The petition shall also specify whether the prisoner has a severe mental disorder and why the severe mental disorder is not in remission or cannot be kept in remission if the person's treatment is not continued.

CHAPTER 659

An act relating to the California Film Commission.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. The California Film Commission shall establish a task force to conduct a study of the insurance requirements of local governments which authorize film production. The study shall include options to simplify, standardize, and improve the current situation for both local governments and filmmakers. Membership on the task force shall include representatives of the California Film Commission, the insurance industry, the Department of Insurance, motion picture production companies, local governments, and the county Supervisors Association of California.

The task force shall report to the Governor, the Legislature, and the California Film Commission on this study within six months of its formation. The task force may remain in existence for 18 months after completion of the report to review, at six-month intervals, whether any progress is being made on the problems identified in the report.

CHAPTER 660

An act to amend Section 2564 of, to add Section 2302 to, and to add and repeal Section 2561.5 of, the Streets and Highways Code, relating to highways.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 2302 is added to the Streets and Highways Code, to read:

2302. In addition to the purposes allowable pursuant to Section

193, the commission may allocate State Highway Account funds available for state highway purposes to meet federally required local financial matching provisions for interstate transfer projects. If the commission allocates the funds for that purpose, the department shall expend the funds or cause them to be expended for that purpose. Funds allocated from the State Highway Account pursuant to this section shall be deemed expenditures on the state highway system for purposes of Sections 188 and 188.8. Funds shall be allocated and expended pursuant to this section only if each of the following conditions exist:

(a) The project shall be a highway.

(b) The highway shall directly connect with a state highway.

(c) The highway shall be a substitute for a previously authorized interstate highway.

(d) The amount of state funding for the substitute highway shall be less than the estimated amount of the state share of the previously authorized interstate highway, both amounts to be calculated in current dollar values.

(e) The substitute highway project shall appear in the state transportation improvement program pursuant to Section 14529 of the Government Code.

SEC. 2. Section 2561.5 is added to the Streets and Highways Code, to read:

2561.5. (a) The department may advance funds from the State Highway Construction Revolving Account in the State Transportation Fund to local agencies to allow those agencies to carry out local highway projects in advance of the availability of federal funds. The amount advanced for a project shall not exceed the federal funding share of the project plus the required matching funds, and shall not, in any event, exceed seven million dollars ($7,000,000). Advances shall be limited to those demonstration projects described in Section 149 of the Federal-Aid Highway Act of 1987 (Public Law 100-17).

(b) Advances made pursuant to this section, including interest, shall be repaid within 24 months of the transfer of funds to the local agency. Interest on advances made pursuant to this section shall be at a rate equal to the rate of return on investments made by the Pooled Money Investment Account at the time of the advance.

(c) The department shall develop procedures for the submission of applications and criteria for the making of advances.

(d) This section shall remain in effect only until December 31, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before December 31, 1992, deletes or extends that date.

SEC. 3. Section 2564 of the Streets and Highways Code is amended to read:

2564. If an advance made pursuant to this chapter is not repaid by a city or county within the time agreed upon, the Controller shall withhold the apportionments to the city or county under Sections

2104, 2106, and 2107 and credit these apportionments to the advance until it is repaid in accordance with the terms and conditions of the agreement.

CHAPTER 661

An act to amend Section 31000.9 of the Government Code, relating to county contracts.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 31000.9 of the Government Code is amended to read:

31000.9. In counties containing a population of 6,000,000 or over, the board of supervisors may, by ordinance, authorize county officers having responsibility for the design and construction of county projects to enter into contracts for architectural, engineering, and related services where the amount of the contract does not exceed seventy-five thousand dollars ($75,000), and to enter into amendments to those contracts entered into by the board where the amount of any amendment does not exceed 10 percent of the amount of the original contract or seventy-five thousand dollars ($75,000), whichever is less. The aggregate total amount of the amendments to an original contract may not exceed 25 percent of the amount of the original contract. Any authorization shall include detailed procedures governing the county officer in the exercise of that authority.

CHAPTER 662

An act to amend Section 1214 of the Penal Code, relating to criminal procedure.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution shall constitute a civil judgment enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order.

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

SEC. 2. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) In any case in which a defendant is ordered to pay restitution as a condition of probation or of a conditional sentence, including where restitution is required by Section 1203.04, the order to pay restitution is deemed a money judgment if the defendant was informed of his or her right to have a judicial determination of the amount and was provided with a hearing, waived a hearing, or stipulated to the amount of the restitution ordered, and shall constitute a civil judgment enforceable in the same manner as is provided for the enforcement of any other money judgment. Upon the victim's request, the court shall provide the victim in whose favor the order of restitution is entered with a certified copy of that order.

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

SEC. 3. Section 2 of this bill incorporates amendments to Section 1214 of the Penal Code proposed by both this bill and AB 3755. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 1214 of the Penal Code, and (3) this bill is enacted after AB 3755, in which case Section 1 of this bill shall not become operative.

CHAPTER 663

An act to amend Section 2453 of the Business and Professions Code, relating to healing arts.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 2453 of the Business and Professions Code is amended to read:

2453. (a) It is the policy of this state that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and privileges as licensed physicians and surgeons.

(b) Notwithstanding any other provision of law, no health facility subject to licensure under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, no health care service plan, nonprofit hospital service plan, policy of disability insurance, self-insured employer welfare benefit plan, and no agency of the state or of any city, county, city and county, district, or other political subdivision of the state shall discriminate with respect to employment, staff privileges, or the provision of, or contracts for, professional services against a licensed physician and surgeon on the basis of whether the physician and surgeon holds an M.D. or D.O. degree. This section shall not be construed to require a disability insurer health care service plan or hospital service plan to employ, offer staff privileges, or contract for professional services with a class of physician who holds an M.D. or D.O. degree. However, this subdivision shall not prohibit a school of allopathic medicine or a school of osteopathic medicine from employing a physician and surgeon as an instructor on the basis of whether the physician and surgeon holds an M.D. or D.O. degree, where the subject matter to be taught specifically requires allopathic or osteopathic training and experience.

(c) Whenever the health facility staffing requirements for a service mandate that the physician responsible for the service be certified or eligible for certification by an appropriate American medical board, that position must be made available on an equal basis to an osteopathic physician who is certified or eligible for certification by the appropriate American osteopathic board which has training and education requirements comparable to the appropriate American medical board.

(d) Staff self-government, involving M.D. and D.O. physicians and surgeons, with respect to the professional work performed in the health facility, shall be accomplished by holding periodic meetings of the staff to review and analyze at regular intervals their clinical experience. Patient medical records shall be the basis for such review and analysis.

(e) The physician and surgeon staff shall be required to establish controls that are designed to ensure the achievement and maintenance of high standards of professional and ethical practices including a provision that all members of the physician and surgeon staff be required to demonstrate their ability to perform surgical and other procedures competently and to the satisfaction of an appropriate committee or committees of the staff at the time of original application for appointment to the staff and at least every two years thereafter The composition of the committee or committees of the staff shall reflect the staff ratio of M.D. and D.O. physicians and surgeons.

(f) No health facility may adopt written bylaws in accordance with legal requirements that in any way are construed to circumvent the intent of the Legislature or any other nondiscriminatory provisions contained in either the Medical Practice Act or in any provisions applicable to osteopathic physicians.

(g) For the purposes of this section, no professional medical or osteopathic association may mandate membership in their respective organizations as a prerequisite for a physician to obtain staff privileges, employment, or in the offering of a contract for services.

(h) Any violation of the provisions of subdivisions (b), (c), (d), (e), (f), and (g) may be enjoined in an action brought in the name of the people of the State of California by the district attorney of the county in which the violation occurs, upon receipt of a complaint by an aggrieved physician and surgeon.

CHAPTER 664

An act to amend Section 813 of, and to add Section 816a to, the Penal Code, relating to crimes.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 813 of the Penal Code is amended to read:

813. (a) When a complaint is filed with a magistrate charging a public offense originally triable in the superior court of the county in which he or she sits, if the magistrate is satisfied from the complaint that the offense complained of has been committed and that there is reasonable ground to believe that the defendant has committed it, the magistrate shall issue a warrant for the arrest of the defendant, except that, upon the request of the prosecutor, a summons instead of an arrest warrant shall be issued; provided, that a judge of the justice court who is not a member of the State Bar may issue such a warrant or summons only upon the concurrence of the

district attorney of the county in which he or she sits or the Attorney General.

(b) A summons issued pursuant to this section shall be in substantially the same form as an arrest warrant and shall contain all of the following:

(1) The name of the defendant.

(2) The date and time the summons was issued.

(3) The city or county where the summons was issued.

(4) The signature of the magistrate, judge, justice, or other issuing authority who is issuing the summons with the title of his or her office and the name of the court or other issuing agency.

(5) The offense or offenses with which the defendant is charged.

(6) The time and place at which the defendant is to appear.

(7) Notification that the defendant is to complete the booking process on or before his or her first court appearance, as well as instructions for the defendant on completing the booking process.

(8) A provision for certification by the booking agency that the defendant has completed the booking process which shall be presented to the court by the defendant as proof of booking.

(c) If a defendant has been properly served with a summons and thereafter fails to appear at the designated time and place, a bench warrant for arrest shall issue. In the absence of proof of actual receipt of the summons by the defendant, a failure to appear shall not be used in any future proceeding.

(d) A defendant who responds to a summons issued pursuant to this section and who has not been booked as provided in subdivision (b) shall be ordered by the court to complete the booking process.

(e) The prosecutor shall not request the issuance of a summons in lieu of an arrest warrant as provided in this section under any of the following circumstances:

(1) The offense charged involves violence.

(2) The offense charged involves a firearm.

(3) The offense charged involves resisting arrest.

(4) There are one or more outstanding arrest warrants for the person.

(5) The prosecution of the offense or offenses with which the person is charged, or the prosecution of any other offense or offenses would be jeopardized.

(6) There is a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered.

(7) There is reason to believe that the person would not appear at the time and place specified in the summons.

SEC. 2. Section 816a is added to the Penal Code, to read:

816a. A summons issued pursuant to Section 813 shall be served by any peace officer, or any public officer or employee authorized to serve process when the summons is for a violation of a statute or ordinance which that person has the duty to enforce, within the state. Upon service of the summons, the officer or employee shall

deliver one copy of the summons to the defendant and shall file a duplicate copy with the magistrate before whom the defendant is to appear.

CHAPTER 665

An act to amend Section 40440 of, and to add Section 40407 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 40407 is added to the Health and Safety Code, to read:

40407. As used in this chapter, "electric plant" means an electric plant as defined in Section 217 of the Public Utilities Code, whether publicly or privately owned or operated.

SEC. 2. Section 40440 of the Health and Safety Code is amended to read:

40440. (a) The south coast district board shall adopt rules and regulations that carry out the plan and are not in conflict with state law and federal laws and rules and regulations. Upon adoption and approval of subsequent revisions of the plan, these rules and regulations shall be amended, if necessary, to conform to the plan.

(b) The rules and regulations adopted pursuant to subdivision (a) shall do all of the following:

(1) Require the use of best available control technology for new and modified sources and the use of best available retrofit control technology for existing sources.

(2) Promote cleaner burning alternative fuels.

(3) Consistent with Section 40414, provide for indirect source controls in those areas of the south coast district in which there are high-level, localized concentrations of pollutants or with respect to any new source that will have a significant effect on air quality in the South Coast Air Basin.

(4) Provide for transportation control measures, as listed in the plan.

(c) The south coast district board shall adopt rules and regulations that will assure that all its administrative practices and the carrying out of its programs are efficient and cost-effective, consistent with the goals of achieving and maintaining federal and state ambient air quality standards and achieving the purposes of this chapter.

(d) The south coast district board shall, on or before January 1, 1990, determine what is the best available retrofit control technology for existing electric plants, and shall adopt rules and regulations requiring the use of the best available retrofit control technology in

existing electric plants, if the board finds and determines that to do so is necessary to carry out the plan.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 666

An act to amend Section 2069 of, and to add Section 2071 to, the Business and Professions Code, relating to medical assistants.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 2069 of the Business and Professions Code is amended to read:

2069. (a) Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests and additional technical supportive services upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist.

(b) As used in this section and Sections 2070 and 2071, the following definitions shall apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, or for a health care services plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Allied Health Professions. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record; or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist authorizing the procedures to be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be

placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by a licensed physician and surgeon or by a licensed podiatrist, within the scope of his or her practice, who shall be physically present in the treatment facility during the performance of such procedures.

(4) "Technical supportive services" means simple routine medical tasks and procedures which may be safely performed by a medical assistant who has limited training and who functions under the supervision of a licensed physician and surgeon or a licensed podiatrist.

(c) Nothing in this section shall be construed as authorizing the licensure of medical assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a medical assistant. Nothing in this section shall be construed as authorizing the division to adopt any regulations which violate the prohibitions on diagnosis or treatment in Section 2052.

(d) Notwithstanding any other provision of law, a medical assistant may not be employed for inpatient care in a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

SEC. 2. Section 2071 is added to the Business and Professions Code, to read:

2071. The Division of Allied Health Professions shall adopt and administer regulations which establish standards for technical supportive services which may be performed by a medical assistant. Nothing in this section shall prohibit the division from amending or repealing regulations covering medical assistants. The division shall, prior to the adoption of any regulations, request recommendations regarding these standards from appropriate public agencies, including, but not limited to, the Board of Optometry, the Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners of the State of California, the Laboratory Field Services division of the State Department of Health Services, those divisions of the State Department of Education which pertain to private postsecondary education and career and vocational preparation, the Chancellor of the California Community Colleges, the California Board of Podiatric Medicine, the Physician's Assistant Examining Committee, and the Physical Therapy Examining Committee. The division shall also request recommendations regarding these standards from associations of medical assistants, physicians, nurses, podiatrists, physician's assistants, physical therapists, laboratory technologists, optometrists, and others as the division finds appropriate, including, but not limited to, the California Optometric Association, the California Nurses Association, the California Medical Association, the California Society of Medical Assistants, the California Medical Assistants' Association, and the California Chapter of the American Physical Therapy Association. Nothing in this section shall be construed to supersede or modify that

portion of the Administrative Procedure Act which relates to the procedure for the adoption of regulations and which is set forth in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

CHAPTER 667

An act to amend Section 19050.8 of, and to add and repeal Section 19080.4 of, the Government Code, relating to state employees.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 19050.8 of the Government Code is amended to read:

19050.8. The board may prescribe rules governing the temporary assignment or loan of employees within an agency or between agencies for not to exceed two years or between jurisdictions for not to exceed four years for any of the following purposes:

(a) To provide training to employees.

(b) To enable an agency to obtain expertise needed to meet a compelling program or management need.

(c) To facilitate the return of injured employees to work.

These temporary assignments or loans shall be deemed to be in accord with this part limiting employees to duties consistent with their class and may be used to meet minimum requirements for promotional as well as open examinations. An employee participating in that arrangement shall have the absolute right to return to his or her former position. Any temporary assignment or loan of an employee made for the purpose specified in subdivision (b) shall be made only with the voluntary consent of the employee.

In addition, out-of-class experience obtained in a manner not described in this section may be used to meet minimum requirements for promotional as well as open examinations, only if it was obtained by the employee in good faith and was properly verified under standards prescribed by board rule.

For purposes of this section, a temporary assignment or loan between educational agencies shall be extended for up to two additional years upon a finding by the Superintendent of Public Instruction or the Chancellor of the California Community Colleges, and with the approval of the Executive Officer of the State Personnel Board, that the extension is necessary in order to substantially complete work on an educational improvement project. Public and private colleges and universities shall be considered educational jurisdictions within the meaning of this section.

SEC. 2. The Legislature finds and declares that limited term

appointments have been an appropriate means of meeting short-term staffing needs without the disruption of temporarily expanding and reducing the permanent state civil service work force. However, these appointments should not be used for permanent staffing needs, since separate civil service processes exist for this purpose.

The Legislature further finds and declares that the one- and two-year limits on limited term appointments have been appropriate in most cases. However, there are some instances, such as major construction projects, in which truly temporary staffing needs that will not lead to permanent employment last for more than two years. In adding Section 19080.4 to the Government Code to allow limited term appointments to be extended for up to two years beyond the existing limits, it is the Legislature's intent to address these unusual needs while still ensuring that limited term appointments are not used for needs that could be efficiently met through the processes for permanent appointment and promotion.

SEC. 3. Section 19080.4 is added to the Government Code, to read:

19080.4. The board may authorize limited term appointments to be extended for up to two years beyond the limits specified in Section 19080.3 when the extension is needed to complete major work still in progress or to prevent disruption of significant state operations. This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 4. The repeal of Section 19080.4 of the Government Code, as added by Section 3 of this act, pursuant to the repeal provision in the section shall not affect the term of any limited term appointment that was extended while the section was in effect, even if the extension was to a date that is later than the repeal date.

CHAPTER 668

An act to amend Section 674.6 of the Insurance Code, relating to insurance.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 674.6 of the Insurance Code is amended to read:

674.6. (a) No insurer issuing policies of insurance subject to Section 674.5 or 675 shall cease to offer any particular line of coverage without prior notification to the commissioner.

(b) An insurer shall notify the department at least 60 days prior

to the date it intends to withdraw wholly or substantially from a line of (1) commercial liability insurance, or (2) any insurance defined in Section 660 or 675 when coverage is provided by a separate rider or endorsement for an activity for which the insured receives compensation, a stipend, or remuneration of any kind for the activity and then only to the extent of the coverage. Upon receipt of the notice, the commissioner may request and review additional information, as deemed necessary, and investigate the market conditions to determine whether that insurance may become not readily available in the voluntary insurance market as a result of the withdrawal.

(c) For purposes of this section, "intent to substantially withdraw" means an insurer's intent to nonrenew in excess of 50 percent of its current policyholders in the line of coverage upon their next renewal.

(d) The commissioner shall adopt appropriate rules, regulations, and standards for purposes of implementing this section.

(e) Any insurer that has notified the commissioner pursuant to subdivision (b) shall (1) notify the commissioner within 10 days after the date given in the withdrawal notice if the insurer does not in fact withdraw that line of insurance from the market, or (2) notify the commissioner within 10 days after reentry if the insurer reenters that line after the withdrawal.

CHAPTER 669

An act to amend Sections 401, 403, 404, 405, 508, and 29203 of the Elections Code, relating to elections.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 401 of the Elections Code is amended to read:

401. Each deputy registrar of voters shall be issued a receipt by the county clerk for all books or pads issued, specifying the numbers of the affidavits received. The deputy is responsible for them until they are returned to the county clerk.

SEC. 2. Section 403 of the Elections Code is amended to read:

403. Individuals and organizations distributing voter registration cards pursuant to subdivision (b) of Section 507 and who receive completed voter registration cards from voters shall return the completed cards to the county clerk or shall deposit such cards in the postal service within three days, excluding Saturdays, Sundays, and state holidays, of receipt from a voter.

SEC. 3. Section 404 of the Elections Code is amended to read:

404. On the day of the close of registration for any election all deputy registrars of voters or individuals and organizations which have submitted plans for distribution, shall immediately return all completed affidavits of registration in their possession to the county clerk. Unused affidavits shall be returned upon completion of the distribution plan.

SEC. 4. Section 405 of the Elections Code is amended to read:

405. The county clerk shall report to the district attorney of the county, under oath, the name of any deputy registrar of voters who has not complied with this article.

SEC. 5. Section 508 of the Elections Code is amended to read:

508. Each affidavit of registration issued to a deputy registrar of voters shall meet the requirements prescribed by Section 506, except that the voter registration card shall be modified, pursuant to regulations adopted by the Secretary of State, to reflect the use of a deputy registrar of voters in lieu of mail delivery. A stub, separated from the body of the voter registration card by a perforated line, shall be attached to each affidavit. Upon the stub shall be printed the number of the affidavit and blanks for the following:

(a) The name, residence, political affiliation, and signature of the voter.

(b) The signature of the deputy taking the registration.

(c) The date.

At the time of registering the voter, the deputy shall fill in the blanks in the stub, and require the voter to sign the stub in the place provided. The deputy shall then detach the stub and the informational portion of the voter registration form from the affidavit and hand the stub and information to the voter.

SEC. 6. Section 29203 of the Elections Code is amended to read:

29203. Any deputy registrar of voters having charge of affidavits of registration is guilty of a misdemeanor who knowingly neglects or refuses to return affidavits of registration as provided in Article 2 (commencing with Section 400) of Chapter 2 of Division 1. The county clerk shall report to the district attorney of the county, under oath, the names of any deputies who have failed to return the affidavits. The district attorney shall take appropriate civil or criminal action.

CHAPTER 670

An act to add Article 1.1 (commencing with Section 89529) and Article 1.2 (commencing with Section 89529.15) to Chapter 5 of Part 55 of, and to repeal Section 89526 of, the Education Code, and to amend Sections 19875, 19876, 19877, 19878, and 19885 of, and to repeal Sections 19869.1 and 19878.1 of, the Government Code, relating to education.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 89526 of the Education Code is repealed.

SEC. 2. Article 1.1 (commencing with Section 89529) is added to Chapter 5 of Part 55 of the Education Code, to read:

Article 1.1. Industrial Disability Leave

89529. This article applies to employees of the trustees who are members of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after July 1, 1974.

This article does not apply to employees of the trustees who are included in the provisions of Article 6 (commencing with Section 4800) of Chapter 2 of Part 2 of Division 4 of the Labor Code.

89529.01. If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

89529.02. As used in this article:

(a) "Industrial disability leave" means temporary disability as defined in Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and includes any period in which the disability is permanent and stationary and the disabled employee is undergoing vocational rehabilitation.

(b) "Full pay" means the gross base pay earnable by the employee and subject to retirement contribution if he or she had not vacated his or her position.

89529.03. When an employee is temporarily disabled by illness or injury arising out of and in the course of state employment, he or she shall become entitled, regardless of his or her period of service, to receive industrial disability leave and payments, in lieu of workers' compensation temporary disability payments and payment under

Section 89527, for a period not exceeding 52 weeks within two years from the first day of disability. The payments shall be in the amount of the employee's full pay less withholding based on his or her exemptions in effect on the date of his or her disability for federal income taxes, state income taxes, and social security taxes not to exceed 22 working days of disability subject to Section 89529.08. Thereafter, the payment shall be two-thirds of full pay. Payments shall be additionally adjusted to offset disability benefits, excluding those disability benefits payable from State Teachers' Retirement System, the employee may receive from other employer-subsidized programs, except that no adjustment will be made for benefits to which the employee's family is entitled up to a maximum of three-quarters of full pay. Contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall be deducted in the amount based on full pay. Discretionary deductions of the employee including those for coverage under a state health benefits plan in which the employee is enrolled shall continue to be deducted unless canceled by the employee. State employer contributions to the Public Employees' Retirement System and state employer normal retirement contributions to the State Teachers' Retirement System shall be made on the basis of full pay and state contributions pursuant to Sections 22825.1 and 22826 of the Government Code because of the employee's enrollment in a health benefits plan shall continue.

89529.04. An employee who is receiving industrial disability leave benefits shall continue to receive all employee benefits which he or she would have received had he or she not incurred disability.

89529.05. The disabled employee shall not receive temporary disability indemnity or sick leave or annual leave with pay for any period for which he or she receives industrial disability leave; however, he or she may elect to waive the provisions of this article and to receive disability indemnity pursuant to Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and to receive payments under Section 89527 in lieu of the benefits provided in this article. If the amount of the employee's benefits payable under this article is less than the amount he or she would receive under Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code, the employee shall be deemed to have rejected the benefits of this article and shall be paid benefits pursuant to Divisions 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code.

89529.06. Division 4.7 (commencing with Section 6200) of the Labor Code shall not apply to employees to which this article applies.

89529.07. If an employee continues to be temporarily disabled after termination of benefits under this article, he or she shall be entitled to the benefits provided by Division 4 (commencing with Section 3200) and 4.5 (commencing with Section 6100) of the Labor Code and to payments under Section 89527.

89529.08. (a) If an illness or injury causes temporary disability, the employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as the result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he or she leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

89529.09. Payments shall be contingent on the complete medical certification of the illness or injury including diagnosis and any prognosis of recovery. Further, payments shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan when furnished by the state subject to appropriate medical approval as determined by the trustees.

89529.10. The trustees or its designee shall adopt any rules and regulations necessary for the administration of this article for its employees.

89529.11. (a) This article shall be effective upon the adoption of applicable rules and regulations, but not later than January 1, 1975.

(b) The reenactment of this article at the 1987–88 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 3. Article 1.2 (commencing with Section 89529.15) is added to Chapter 5 of Part 55 of the Education Code, to read:

Article 1.2. Nonindustrial Disability Insurance

89529.15. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time employee of the trustees, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after October 1, 1976.

(2) A permanent or probationary part-time or intermittent employee of the trustees with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(3) In addition to those eligible under paragraph (1), an employee of the trustees appointed half-time or more for one year of service or one academic year, as defined by the trustees, or more, who is a member of the Public Employees' Retirement System or the

State Teachers' Retirement System in compensated employment on or after January 1, 1979.

(b) "Full pay" means the gross base salary earnable by the employee and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purpose of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California Unemployment Insurance Appeals Board.

89529.16. If the provisions of this article are in conflict with the provisions of a memorandum of understanding reached pursuant to Chapter 12 (commencing with Section 3560) of Division 4 of Title 1 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

89529.17. (a) When an employee is disabled, whether temporarily or permanently, the employee shall become entitled, subject to the provisions of this article, to receive nonindustrial disability benefits in an amount equal to one-half pay, but not to exceed one hundred twenty-five dollars ($125) per week, payable monthly for a period not exceeding 26 weeks for any one disability benefit period, but in no case shall benefits be payable for any day on and after death or separation or retirement from state service.

(b) For purposes of this section, the "full pay" of a part-time or intermittent employee only shall be established in accordance with the following:

(1) Where the part-time employment is regularly scheduled and is a fixed proportion of the established workweek, the payments shall be determined on the basis of that proportionate part of the monthly rate.

(2) Where employment is intermittent or irregular, the payments shall be determined on the basis of the proportionate part of a monthly rate established by the total hours actually employed in the 18 monthly pay periods immediately preceding the pay period in which the disability begins as compared to the regular rate for a full-time employee in the same group or class.

89529.18. A disabled employee is eligible to receive nonindustrial disability benefits under this article equal to one-seventh of his or her weekly benefit amount specified in Section 89529.17 for each full day during which he or she is unemployed due to a disability only if the Director of Employment Development finds that:

(a) He or she has made a claim for disability benefits as required by authorized regulations.

(b) He or she has been disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no benefits under this article are payable except for confinement in a hospital or nursing home for at least one day.

(c) He or she has exhausted all sick leave to which he or she was entitled under Article 1 (commencing with Section 89501) of this chapter.

(d) Except for an individual described in Section 2709 of the Unemployment Insurance Code, he or she has submitted to such reasonable examinations as the Director of Employment Development may require for the purpose of determining his or her mental or physical disability.

(e) He or she has filed a certificate described in Section 2708 or 2709 of the Unemployment Insurance Code.

(f) Except as otherwise provided, he or she meets, in all respects, the eligibility requirements imposed on individuals by Part 2 (commencing with Section 2601) of Division 1 of the Unemployment Insurance Code for receipt of umemployment compensation disability benefits.

In case of any conflict between Part 2 (commencing with Section 2601) of the Unemployment Insurance Code and this article, this article shall prevail.

89529.19. A disabled employee shall be eligible to receive nonindustrial disability benefits under this article without being required to use any vacation leave accrued under Article 1 (commencing with Section 89501) of this chapter, unless the employee, in his or her sole discretion, elects to use the vacation leave in lieu of receiving benefits under this article, in which case benefits under this article shall not commence until the employee has exhausted the accrued vacation leave.

89529.20. An employee is not eligible for disability benefits under this article with respect to any period for which the Director of Employment Development finds that he or she has received or is entitled to receive unemployment compensation benefits under Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code or under an unemployment compensation act of any other state or of the federal government.

89529.21. (a) Except as provided in this section, an individual is not eligible for disability benefits under this article for any day of unemployment and disability for which he or she has received, or is entitled to receive, "other benefits" in the form of cash payments.

(b) "Other benefits", as used in this section, means:

(1) Temporary disability indemnity under a workers' compensation law of this state or of any other state or of the federal government or under Article 1.1 (commencing with Section 89529).

(2) Temporary disability benefits under any employer's liability law of this state or of any other state or of the federal government.

(c) If such "other benefits" are less than the amount an individual would otherwise receive as disability benefits under this article, he or she shall be entitled to receive, for that day, if otherwise eligible, disability benefits under this article reduced by the amount of the "other benefits". If after receipt of, or determination of entitlement to receive, such other benefits, a claim for disability benefits under this article is filed during the same continuous period of disability, because of a disability for which a claim for the other benefits was made, the maximum amount of disability benefits payable under this article during the disability benefit period thereby established shall be reduced by the amount of the "other benefits" which the claimant has received or has been determined to be entitled to receive.

89529.22. Discretionary deductions of the employee, including those for coverage under a state health benefits plan in which an employee is enrolled, shall be deducted from the disability benefits under this article unless canceled by the employee. If an employee deduction under a state health benefits plan is continued, the state employer contribution shall also continue.

An employee shall not receive service credit under the Public Employees' Retirement System or the State Teachers' Retirement System during the period of receipt of disability benefits under this article and contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall not be deducted. State employer contribution shall also not be made to either system during that period.

An employee shall not accrue sick leave or vacation credit or service credit for any other purpose during the period of receipt of disability benefits under this article.

89529.23. Filing, determination, and payment of disability benefit claims under this article shall be made in accordance with the procedures prescribed by Article 4 (commencing with Section 2701) of Chapter 2 of Part 2 of Division 1 of the Unemployment Insurance Code.

89529.24. The trustees shall adopt any rules and regulations necessary for the administration of this article for employees of the California State University.

89529.25. The reenactment of this article at the 1987–88 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 4. Section 19869.1 of the Government Code is repealed.

SEC. 5. Section 19875 of the Government Code is amended to read:

19875. (a) If an illness or injury causes temporary disability, the

employee shall be placed on industrial disability leave on the fourth calendar day after the injured employee leaves work as a result of the illness or injury, except that in case the injury causes disability of more than 14 days or necessitates hospitalization, the employee shall be placed on industrial disability leave from the first day he or she leaves work or is hospitalized as a result of the injury.

(b) Notwithstanding subdivision (a), in the case of state civil service employees and employees of the Regents of the University of California, the disability payment shall be made from the first day the injured employee leaves work as a result of the injury, if the injury is the result of a criminal act of violence against the employee.

(c) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 6. Section 19876 of the Government Code is amended to read:

19876. (a) Payments shall be contingent on the complete medical certification of the illness or injury including diagnosis and any prognosis of recovery. Further, payments shall be contingent on the employee's agreement to cooperate and participate in a reasonable and appropriate vocational rehabilitation plan when furnished by the state subject to appropriate medical approval as determined by the department.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 7. Section 19877 of the Government Code is amended to read:

19877. The department shall adopt any rules and regulations necessary for the administration of this article.

The appointing power of any officer or employee not a member of the civil service shall adopt any rules and regulations necessary for the administration of this article for such officers or employees.

SEC. 8. Section 19878 of the Government Code is amended to read:

19878. As used in this article:

(a) "Employee" means any of the following:

(1) A permanent or probationary full-time state officer or employee, regardless of period of service, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System in compensated employment on and after

October 1, 1976. Commencing January 1, 1979, it also means a full-time state officer or employee, whether or not a member of such systems, who is an employee of the Legislature and is not a member of the civil service.

(2) A permanent or probationary part-time or intermittent state officer or employee, with at least the equivalent of six monthly compensated pay periods of service in the 18 months of pay periods immediately preceding the pay period in which the disability begins, who is a member of the Public Employees' Retirement System or the State Teachers' Retirement System, in compensated employment on or after January 1, 1979, or a part-time or intermittent employee of the Legislature, whether or not a member of the Public Employees' Retirement System, in compensated employment on or after January 1, 1984.

(b) "Full pay" means the gross base salary earnable by the employee, and subject to retirement contribution on the date of the commencement of his or her disability.

(c) "Disability" or "disabled" includes mental or physical illness and mental or physical injury, including any illness or injury resulting from pregnancy, childbirth, or related medical condition. An employee is deemed disabled on any day in which, because of his or her physical, mental, or medical condition, he or she is unable to perform his or her regular or customary work.

(d) "Disability benefit period", with respect to any individual, means the continuous period of disability beginning with the first day with respect to which the individual files a valid claim for nonindustrial disability benefits. For the purposes of this article, two consecutive periods of disability due to the same or related cause or condition and separated by a period of not more than 14 days shall be considered as one disability benefit period.

(e) "Appeals board" means the California Unemployment Insurance Appeals Board.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 9. Section 19878.1 of the Government Code is repealed.

SEC. 10. Section 19885 of the Government Code is amended to read:

19885. The department shall adopt any rules and regulations necessary for the administration of this article.

The appointing power of any officer or employee of the Legislature, who is not a member of the civil service, shall adopt any rules and regulations necessary for the administration of this article for such officers or employees.

SEC. 11. It is the intent of the Legislature in enacting this act that

the transfer of certain provisions of the Government Code relating to industrial disability leave and nonindustrial disability leave for employees of the California State University to the Education Code does not constitute a change in, but is declaratory of, the existing law.

CHAPTER 671

An act to amend Section 17145 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 17145 of the Revenue and Taxation Code, as amended by Chapter 11 of the Statutes of 1988, is amended to read:

17145. (a) If, at the close of each quarter of its taxable year, at least 50 percent of the value of the total assets of a management company, or series thereof, consists of either (1) obligations, interest on which is exempt from taxation by this state under the Constitution or laws of this state, or (2) obligations of the United States which pay interest excludable from income under the Constitution or laws of the United States, that company or series of that company shall be qualified to pay exempt-interest dividends to its shareholders.

(b) For purposes of this section—

(1) "Exempt-interest dividend" means any dividend or part thereof paid by a management company or series thereof in an amount not exceeding the interest received by it during its taxable year on obligations, interest on which is exempt from taxation by this state under the Constitution or laws of this state and on obligations of the United States which pay interest excludable from income under the Constitution or laws of the United States, and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.

(2) "Management company" means a corporation or business trust or other organization which meets the requirements of Section 24412.

(3) "Series" means a segregated portfolio of assets, the beneficial interest in which is owned by the holders of a class or series of stock of the management company that is exclusive of all other classes or series with respect to that portfolio of assets.

(4) "Value" means, with respect to securities (other than those of majority-owned subsidiaries) for which market quotations are readily available, the market value of those securities; and with respect to other securities and assets, fair market value as determined in good faith by the board of directors or trustees, except that in the case of securities of majority-owned subsidiaries which are

investment companies, as defined in the Investment Company Act of 1940, that fair value shall not exceed market value or asset value, whichever is higher.

(c) An exempt-interest dividend shall be treated by recipients thereof as an item of interest excludable from income.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 672

An act to amend Section 1 of Chapter 1421 of the Statutes of 1987, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1 of Chapter 1421 of the Statutes of 1987 is amended to read:

Section 1. (a) Notwithstanding subdivision (b) of Provision 1 of Item 4260-111-001 of Chapter 135 of the Statutes of 1987, and in substitution therefor, the advisory committee described in subdivision (c) shall oversee a study contracted for by the State Department of Health Services to evaluate the comparative safety of the following three blood platelet transfusion products:

(1) Pooled random platelet packs.

(2) Platelet pheresis concentrates derived through the hemapheresis process from volunteer donors.

(3) Platelet pheresis concentrates derived through the hemapheresis process from paid donors.

(b) The comparative safety of the blood platelet transfusion products shall be assessed by an audit of laboratory records of consecutive blood platelet component products from blood banks which harvest platelets from volunteer and paid donors in like geographic areas. The audit shall assess the safety profiles and the percentage of platelet units rejected for laboratory testing abnormalities for each of the three blood platelet transfusion products. Laboratory tests to be reviewed shall include all of the following:

(1) Hepatitis B surface antigen.

(2) Antibody to hepatitis B core antigen.

(3) Antibody to the human immunodeficiency virus.

(4) Alanine aminotransferase (ALT) test for elevated liver enzymes.

(c) The Director of Health Services shall appoint an advisory committee (hereinafter known as the committee), composed of the

following representatives to oversee the study defined in this section:

(1) The Director of the Apheresis Blood Unit Component at Scripps Clinic and Green Hospital.

(2) The Director or the Associate Director of Blood Banks at the University of Southern California/Los Angeles County Medical Center.

(3) The Chief of Clinical Pathology, Department of Pathology, Harbor—UCLA Medical Center.

(4) The Professor of Laboratory Medicine/Director of the Transfusion Medicine Research program at the University of California, San Francisco Medical Center.

(5) The Medical Director of the Community Blood Bank of North County located in Escondido.

If any of the individuals designated in paragraphs (1) to (5), inclusive, are unable to serve, a committee composed of a minimum of three members shall be sufficient for performance of the committee's duties.

(d) The committee shall do all of the following:

(1) Establish the criteria for selecting the individuals or organizations which will be contracting with the department pursuant to subdivision (f) to complete the study.

(2) Establish the protocols for conducting the study.

(e) The members of the committee shall be reimbursed for travel and communication expenses and shall receive one hundred dollars ($100) per diem for attendance at steering committee meetings.

(f) The department, with the concurrence of the committee, shall engage in contracts necessary to complete the study required by this section. Contractors shall provide progress reports to the department and the committee as determined necessary by the committee. The members of the committee shall have no personal financial interest or direct involvement in the implementation of the study described in this section. Nothing in this section shall be construed to limit the departments' ability to contract with the universities or facilities at which the members of the committee are employed or practice.

(g) At the end of each fiscal year for which funding for the study is provided, the committee shall report its findings to the department and the Legislature.

(h) Funding for implementation of this act shall be limited to no more than two hundred thousand dollars ($200,000) per year which may be provided through, but not beyond, the 1989–90 fiscal year. Funds appropriated in subdivision (b) of Provision 1 of Items 4260-111-001 of Chapter 135 of the Statutes of 1987, in the 1987–88 Budget Act shall be expended in order to implement this section. It is the intent of the Legislature that, for subsequent fiscal years, funding shall be provided in the Budget Act, in conjunction with funding for research on lupus erythematosus, in order to implement this section.

SEC. 2. This act is an urgency statute necessary for the

immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that Chapter 1421 of the Statutes of 1987 is implemented at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 673

An act to add Section 2882 to the Public Utilities Code, relating to telephones.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. It is the intent of the Legislature, in enacting Section 2882 of the Public Utilities Code, that telephone subscribers should share in the savings and benefits of technological advancements which improve the efficiency of telephone service in California.

SEC. 2. Section 2882 is added to the Public Utilities Code, to read:

2882. (a) The commission shall conduct an investigation and hearings on the establishment of telephone rates with respect to whether there should be no additional charge to subscribers for tone-dialing service. The commission shall, in this connection, consider whether to redefine basic telephone service so that rates for tone-dialing service shall be included in the charge for basic telephone service, together with factors such as, but not limited to, the following:

(1) The extent to which tone-dialing capability already exists in service areas.

(2) The cost to the corporation for the purchase or modification of equipment to provide tone-dialing service to all subscribers.

(3) Alternate methods to adjust user rates to recover costs which would be incurred to provide tone-dialing service to all subscribers.

(b) In establishing telephone rates, the commission shall take into consideration any economies and savings to the corporation realized through the complete conversion to tone-dialing capability.

CHAPTER 674

An act to amend Section 273.6 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the court orders set forth in this subdivision, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure shall be a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than one year or by both the fine and imprisonment.

(b) In the event of a violation of subdivision (a) which results in a physical injury, the person shall be imprisoned in the county jail for at least 48 hours, whether a fine or imprisonment is imposed, or the sentence is suspended.

(c) Subdivisions (a) and (b) shall apply to the following court orders:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (d).

(d) A second or subsequent conviction for a violation of an order issued pursuant to subdivision (a) occurring within seven years of a prior conviction for a violation of such an order and involving an act of violence or "a credible threat" of violence as defined in subdivision (b) of Section 139 is punishable by imprisonment in the county jail not to exceed one year, or in the state prison for 16 months or two or three years.

(e) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a), (b), and (d).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction,

changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to provide greater security for victims of domestic violence by increasing the penalties therefor, it is necessary that this act take effect immediately.

CHAPTER 675

An act to amend Section 39802 of, and to add Section 39802.5 to, the Health and Safety Code, relating to air pollution.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 39802 of the Health and Safety Code is amended to read:

39802. (a) The state board may subvene up to one dollar ($1) for every dollar budgeted for use by any of the following:

(1) A district whose boundaries include an entire air basin.

(2) Districts whose boundaries together include an entire air basin and which are parties to one joint powers agreement or other enforceable agreement which provides for all of the following:

(A) Uniform rules and regulations among all districts, excluding administrative rules and regulations.

(B) At least four meetings per year of the basinwide air pollution control council formed under Section 40900, or an equivalent procedure for basinwide consideration of policy matters.

(C) Suitable sharing of qualified air pollution personnel and equipment.

(b) (1) Subventions under this section shall not exceed twenty-three cents ($0.23) per capita, but shall not be less than eighteen thousand dollars ($18,000) for any district, if the district provides the required matching funds, except as specified in paragraph (2).

(2) If a district is a rural district, as defined by the state board, the minimum subvention shall be that specified in Section 39802.5 if the district provides the required matching funds and does one of the following:

(A) Has a fee system that fully recovers the district's cost of issuing and renewing permits, performing source inspections, determining compliance status, and processing variances for stationary sources which emit 25 or more tons annually of any regulated pollutant.

(B) Provides its matching funds, for any funds authorized by Section 39802.5 in excess of the dollar amount subvened to the district pursuant to this chapter in fiscal year 1986–87, from an increase in moneys budgeted over the level of funding budgeted for the 1986–87 fiscal year.

(c) The merger into a unified or regional district pursuant to this division by any county district shall cause the minimum subvention of the county district to be transferred to the unified district or regional district if the unified district or regional district provides the required matching funds. If portions of a county district are merged into unified or regional districts pursuant to this division, the state board shall apportion, according to population within each portion of the county, the minimum subvention of the county district to the unified districts or regional districts into which the portions of the county district are merged. A unified district or a regional district which has all or a portion of a county district minimum subvention transferred to it under this section may not also receive subventions under the per capita provisions of this section. A subvention made pursuant to Section 39803 shall preclude subvention under this section.

SEC. 2. Section 39802.5 is added to the Health and Safety Code, to read:

39802.5. Minimum subventions for purposes of paragraph (2) of subdivision (b) of Section 39802 shall be determined as follows:

(a) If the amount appropriated in the Budget Act for district subventions is equal to or less than seven million eleven thousand dollars ($7,011,000), the minimum subvention is eighteen thousand dollars ($18,000).

(b) If the amount appropriated in the Budget Act for district subventions is at least seven million five hundred eleven thousand dollars ($7,511,000), the minimum subvention is thirty-four thousand four hundred dollars ($34,400).

(c) (1) If the amount appropriated in the Budget Act for district subventions is more than seven million eleven thousand dollars ($7,011,000), but less than seven million five hundred eleven thousand dollars ($7,511,000), the minimum subvention is the sum of (A) eighteen thousand dollars ($18,000) and (B) the product of (i) sixteen thousand four hundred dollars ($16,400) multiplied by (ii) the amount by which the funds budgeted for district subventions exceeds seven million eleven thousand dollars ($7,011,000) divided by five hundred thousand dollars ($500,000).

(2) Any portion of the amount appropriated in the Budget Act for district subventions which is more than seven million eleven thousand dollars ($7,011,000), but less than seven million five hundred eleven thousand dollars ($7,511,000), and which is not awarded in accordance with the determination of minimum subventions pursuant to paragraph (1) shall be subvened pursuant to Section 39810 only to rural districts, as defined by the state board.

CHAPTER 676

An act to amend Sections 1280b and 1280.1 of the Penal Code, relating to crime.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1280b of the Penal Code is amended to read:

1280b. It shall be the duty of the judge or magistrate to file with the clerk of the court, within 24 hours after presentation to him or her, all affidavits for the justification of bail, by delivering or mailing them to the clerk of the court. Certified copies of the affidavits for justification of bail involving equity in real property may upon the written order of the judge or magistrate be recorded with the county recorder.

SEC. 2. Section 1280.1 of the Penal Code is amended to read:

1280.1. (a) From the time of recording an affidavit for the justification of bail, the affidavit shall constitute an attachment lien governed by Sections 488.500, 488.510 and 489.310 of the Code of Civil Procedure in the amount of the bail undertaking, until exonerated, released, or otherwise discharged. Any release of the undertaking shall be effected by an order of the court, filed with the clerk of the court, with a certified copy of the order recorded in the office of the county recorder.

If the bail is forfeited and summary judgment is entered, pursuant to Sections 1305 and 1306, the lien shall have the force and effect of a judgment lien, by recordation of an abstract of judgment, which, may be enforced and satisfied pursuant to Section 1306 as well as through the applicable execution process set forth in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 677

An act to amend Sections 69621, 69624, and 69644 of the Education Code, relating to education.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 69621 of the Education Code is amended to read:

69621. California State University Educational Opportunity Program grants may be awarded to persons selected for enrollment in programs authorized by the trustees according to the procedures established by the trustees. A person selected for a grant shall be a resident of this state, shall be a high school graduate or have, pursuant to the procedures, equivalent qualifications, and shall have been nominated by his or her high school or community college, the Veterans Administration, a state agency or educational agency designated by the trustees, or a state university president. The trustees shall determine eligibility for grants awarded pursuant to this chapter. The grants may be granted and renewed according to standards set by the trustees until the student has received a baccalaureate degree or has completed five academic years, whichever occurs first. In special circumstances, as in the case of illness, military service, or family hardship, the trustees may renew the grant beyond the fifth year of study, provided the student has not received a baccalaureate degree. When the recipient is an enrollee in a special educational opportunity program approved by the trustees, for the purposes of this chapter, the state university sponsoring the program shall receive from the trustees reimbursement of up to sixty dollars ($60) per month per enrollee up to 12 months' support.

SEC. 2. Section 69624 of the Education Code is amended to read:

69624. Each high school or community college in this state may nominate to the trustees students it deems deserving of the grants made available under this chapter. The trustees shall compile a list of students so nominated from which it may select students for grants in accordance with standards set by the trustees pursuant to this chapter. The Veterans Administration, any state agency, or educational agency designated by the trustees, or any president of a California State University may nominate persons whom they deem eligible for the grants.

SEC. 3. Section 69644 of the Education Code is amended to read:

69644. The chairperson and vice chairperson of the committee shall be designated by the board from among the members.

CHAPTER 678

An act to add Section 4365 to the Civil Code, and to amend Section 904.1 of the Code of Civil Procedure, relating to appeals.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 4365 is added to the Civil Code, to read:

4365. (a) Notwithstanding any other provision of law, in any proceeding brought under this part, in which the superior court has ordered an issue or issues bifurcated for separate trial or hearing in advance of the disposition of the entire case, a court of appeal may order an issue or issues transferred to it for hearing and decision when the superior court which heard the issue or issues certifies that the appeal is appropriate. Certification by the superior court shall be in accordance with rules promulgated by the Judicial Council.

(b) The Judicial Council shall establish rules for the certification of appeals described in subdivision (a) by July 1, 1989.

SEC. 2. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court, or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter

made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code or the Family Law Act, Part 5 (commencing with Section 4000) of Division 4 of the Civil Code.

CHAPTER 679

An act to amend Section 25208.2 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 25208.2 of the Health and Safety Code is amended to read:

25208.2. For purposes of this article, the following definitions apply:

(a) "Active life of the facility" means that period of time when the facility has the potential to adversely affect the waters of the state, but if the owner enters into an agreement with the board to properly close the impoundment on a specified date, the active life of the facility means that period of time up to that specified date.

(b) "Background water quality" means the level of concentration of indicator parameters in groundwater that is not, or has not been, affected by any hazardous waste, hazardous waste constituent, or hazardous waste leachate emanating from a particular waste management unit.

(c) "Board" or "state board" means the State Water Resources Control Board.

(d) "Close the impoundment" means the permanent termination of all hazardous waste discharge operations at a waste management unit and any operations necessary to prepare that waste management unit for postclosure maintenance which are conducted pursuant to the federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Sec. 6901 et seq.), and the regulations adopted by the state board and the department concerning the closure of surface impoundments.

(e) "Constituent" means an element, chemical compound, or mixture of compounds which is a component of a hazardous waste or leachate and which has the physical or chemical properties that cause the waste to be identified as hazardous waste by the

department.

(f) "Discharge" means to place, dispose of, or store liquid hazardous wastes or hazardous wastes containing free liquids into or in a surface impoundment owned or operated by the person who is conducting the placing, disposal, or storage.

(g) "Emergency containment dike" means a berm which is located around a tank solely for the purpose of containing any emergency spills from the tank and which does not contain any liquid hazardous waste or hazardous wastes containing free liquids for longer than 48 hours.

(h) "Facility" means the structures, appurtenances, and improvements on the land, and all contiguous land, which are used for treating, storing, or disposing of hazardous waste. A facility may consist of several waste management units.

(i) "Free liquids" means liquids which readily separate from the solid portion of a hazardous waste under ambient temperature and pressure.

(j) "Groundwater" means water below the land surface in a zone of saturation.

(k) "Hazardous waste" means a waste that is a hazardous waste, as specified in this chapter.

(*l*) "Indicator parameters" means the measureable physical or chemical characteristics in groundwater or soil-pore moisture which are likely to be affected by hazardous waste disposal operations and which are used, for comparison purposes, to assess the result of hazardous waste disposal operations at a particular waste management unit on the waters of the state.

(m) "Landfill" means a facility or part of a facility where hazardous waste is placed in or on land for disposal and which is not a land farm, surface impoundment, or an injection well.

(n) "Leachate" means any fluid, including any constituents in the liquid, that has percolated through, migrated from, or drained from, a hazardous waste management unit.

(o) "Owner" means a person who owns a facility or part of a facility.

(p) "Perched water" means a localized body of groundwater that overlies, and is hydraulically separated from, an underlying body of groundwater.

(q) "pH" means a measure of a sample's acidity expressed as a negative logarithm of the hydrogen ion concentration.

(r) "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste which is used for the purpose of treatment or storage.

(s) "Pollution" has the same meaning as defined in Section 13050 of the Water Code.

(t) "Potential source of drinking water" means either water which is identified or designated in a water quality control plan adopted by a regional board as being suitable for domestic or municipal uses and which is potable, or water which is located in

water-bearing strata which is an underground source of drinking water, as defined in Section 146.3 of Title 40 of the Code of Federal Regulations, and which is not an exempted acquifer, as defined in Section 146.4 of Title 40 of the Code of Federal Regulations.

(u) "Qualified person" means a person who has at least five years of full-time experience in hydrogeology and who is a certified engineering geologist certified pursuant to Section 7842 of the Business and Professions Code, a registered geologist registered pursuant to Section 7850 of the Business and Professions Code, or a registered civil engineer registered pursuant to Section 6762 of the Business and Professions Code. "Full-time experience" in hydrogeology may include a combination of postgraduate studies in hydrogeology and work experience, with each year of postgraduate work counted as one year of full-time work experience, except that not more than three years of postgraduate studies may be counted as full-time experience.

(v) "Regional board" means the California regional water quality control board for the region in which the surface impoundment is located.

(w) "Report" means the hydrogeological assessment report specified in Section 25208.8.

(x) "Surface impoundment" or "impoundment" means a waste management unit or part of a waste management unit which is a natural topographic depression, artificial excavation, or diked area formed primarily of earthen materials, although it may be lined with artificial materials, which is designed to hold an accumulation of liquid hazardous wastes or hazardous wastes containing free liquids, including, but not limited to, holding, storage, settling, or aeration pits, evaporation ponds, percolation ponds, other ponds, and lagoons. Surface impoundment does not include a landfill, a land farm, a pile, emergency containment dike, tank, or an injection well.

(y) "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, which is constructed primarily of nonearthen materials such as fiberglass, steel, or plastic to provide structural support, and which has been issued a permit pursuant to Section 25283.

(z) "Vadose zone" means the zone between the land surface and the water table.

(aa) "Waste management unit" means that portion of a facility used for the discharge of hazardous waste into or onto land, including all containment and monitoring equipment associated with that portion of the facility.

CHAPTER 680

An act to amend Section 25662 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 25662 of the Business and Professions Code is amended to read:

25662. (a) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment.

(b) Unless otherwise provided by law, where a peace officer has lawfully entered the premises, the peace officer may seize any alcoholic beverage in plain view which is in the possession of, or provided to, a person under the age of 21 years at social gatherings, when those gatherings are open to the public, 10 or more persons under the age of 21 years are participating, persons under the age of 21 years are consuming alcoholic beverages, and there is no supervision of the social gathering by a parent or guardian of one or more of the participants.

Where a peace officer has seized alcoholic beverages pursuant to this subdivision, the officer may destroy any alcoholic beverage contained in an opened container and in the possesssion of, or provided to, a person under the age of 21 years, and, with respect to alcoholic beverages in unopened containers, the officer shall impound those beverages for a period not to exceed seven working days pending a request for the release of those beverages by a person 21 years of age or older who is the lawful owner or resident of the property upon which the alcoholic beverages were seized. If no one requests release of the seized alcoholic beverages within the time limits prescribed herein, those beverages may be destroyed.

CHAPTER 681

An act to amend Sections 9311 and 9321 of, and to add Section 9313.1 to, the Business and Professions Code, relating to polygraph examiners.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 9311 of the Business and Professions Code is amended to read:

9311. (a) A person whose license has expired may obtain a renewal without examination upon application within two years after the date of the expiration of the license, upon compliance by the person with all of the following:

(1) Proof of attendance of at least 24 hours of polygraph training approved by the board within the previous two years.

(2) Payment of the required fee for the renewal.

(b) If a license is renewed more than 30 days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal shall be effective on the date the application is filed, on the date the renewal fee is paid, or on the date the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 2. Section 9313.1 is added to the Business and Professions Code, to read:

9313.1. (a) In any case in which the administrative law judge recommends that the board revoke, suspend, or deny a license, the executive officer of the board may request that judge as part of the proposed decision to direct the applicant or licensee to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.

(b) A certified copy of the actual costs, or good faith estimated cost where actual costs are not available, signed by the executive officer, shall be prima facie evidence of reasonable costs of investigation and prosecution of the case and binding on the administrative law judge in the absence of evidence to the contrary offered at the administrative hearing.

(c) The administrative law judge shall make a finding of the amount of reasonable costs of the case when requested to do so by the executive officer pursuant to subdivision (a).

(d) The administrative law judge may recommend the board reduce or waive all or part of those costs, subject to Section 11517 of the Government Code.

(e) When an administrative law judge makes a recommendation that costs be waived or reduced, he or she shall set forth the reasons in the proposed decision.

(f) The board may enforce the order for payment in the superior court of the county where the administrative hearing was held. In the case of a default decision, the order may also be enforced in any county where the Attorney General has an office. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

(g) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms of payment.

(h) All costs recovered under this section shall be deposited in the board's contingency fund as a reimbursement in either the fiscal year in which the costs were actually recovered or the previous fiscal year, as the board may direct.

SEC. 3. Section 9321 of the Business and Professions Code is amended to read:

9321. (a) The amount of fees relating to licensure pursuant to this chapter shall be as follows:

(1) The application fee is seventy-five dollars ($75).

(2) The fee for taking the qualifying examination is fifty dollars ($50). Persons failing to appear for the examination, once having been scheduled, shall forfeit any examination fee paid.

(3) The initial license fee is two hundred twenty-five dollars ($225).

(4) The reexamination fee is fifty dollars ($50).

(5) The renewal fee is two hundred twenty-five dollars ($225).

(6) The duplicate license fee is ten dollars ($10).

(7) Notwithstanding Section 163.5, the late renewal fee is fifty dollars ($50).

(8) The provider fee for continuing education course approval requests shall be set by the board at an amount not to exceed fifty dollars ($50).

The initial license or renewal fee shall be refunded to an intern licensee on a prorated basis upon the issuance of a general license.

(b) The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Polygraph Examiners Fund, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account and which shall be repaid in the following manner:

(1) Ten thousand dollars ($10,000) shall be repaid during the 1986–87 fiscal year.

(2) The balance shall be repaid in increments of not less than ten thousand dollars ($10,000) each fiscal year, with the entire sum plus interest paid by January 1, 1990.

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

(c) The amendments to this section made by the act adding this subdivision shall become operative only if SB 1062 of the 1987–88 Regular Session is enacted and amends or repeals Section 14.5 of Chapter 1210 of the Statutes of 1984.

CHAPTER 682

An act to amend Section 10502 of, and to add Sections 10502.8, 10655, 10655.5, and 10932 to, the Fish and Game Code, relating to marine life refuges.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 10502 of the Fish and Game Code is amended to read:

10502. The commission may:

(a) Exercise control over all mammals and birds in any game refuge, and exercise control over all fish in any fish refuge.

(b) Authorize the department to issue, under such restrictions as it may deem best, permits which authorize the person named therein to carry, use, and possess within any refuge, firearms, traps or other contrivances for taking birds, mammals, fish, or amphibia.

(c) Except as provided in Sections 10502.5, 10502.8, 10655, and 10657, authorize the department to issue permits which shall authorize the person named therein to take birds, mammals, fish, and amphibia within any refuge.

(d) Make additional regulations not in conflict with any law for the protection of birds, mammals, fish, amphibia, and marine life within any refuge.

SEC. 2. Section 10502.8 is added to the Fish and Game Code, to read:

10502.8. (a) The director may appoint the Director of the Catalina Marine Science Center Marine Life Refuge.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge may authorize any person to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking fish or marine plants under the conditions that the department determines necessary for the protection and propagation of fish and wildlife and related scientific purposes in that refuge.

(c) The Director of the Catalina Marine Science Center Marine Life Refuge, upon recommendation of the Director of the Catalina Marine Science Center, may authorize any person involved in oceanographic and scientific research in and around Santa Catalina Island to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge.

SEC. 3. Section 10655 is added to the Fish and Game Code, to read:

10655. (a) A person involved in oceanographic and scientific research in and around Santa Catalina Island may be authorized by the Director of the Catalina Marine Science Center Marine Life Refuge to enter the Catalina Marine Science Center Marine Life Refuge and to anchor or moor a vessel therein.

(b) The Director of the Catalina Marine Science Center Marine Life Refuge, or any person that the Director of the Catalina Marine Science Center Marine Life Refuge has authorized under Section 10502.8, may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department under Section 10502.8.

SEC. 4. Section 10655.5 is added to the Fish and Game Code, to read:

10655.5. (a) Except as expressly provided in this division, it is unlawful to enter the Catalina Marine Science Center Marine Life Refuge for the purpose of taking or possessing any fish or marine plants or to take or possess any fish or marine plants in the Catalina Marine Science Center Marine Life Refuge.

(b) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Catalina Marine Science Center Marine Life Refuge without authorization by the Director of the Catalina Marine Science Center Marine Life Refuge pursuant to Section 10502.8.

(c) Section 10655 and this section do not prohibit or restrict navigation in the Catalina Marine Science Center Marine Life Refuge pursuant to federal law.

SEC. 5. Section 10932 is added to the Fish and Game Code, to read:

10932. The following constitutes a marine life refuge and shall be designated the Catalina Marine Science Center Marine Life Refuge:

All that area bounded on the south and southeast by the mean high tide line and by the present seaward boundary of the lease to tide and submerged lands now held by the University of Southern California from the State Lands Commission (No. 3692.1 Public Resources Code Series) and extending from a point on the mean high tide line at 33° 26′ 39″ North Latitude 118° 29′ 19″ West Longitude, thence to 33° 26′ 50″ North Latitude 118° 29′ 08″ West Longitude, thence to 33° 26′ 57.5″ North Latitude 118° 28′ 33.5″ West Longitude, thence to 33° 26′ 55″ North Latitude 118° 28′ 32″ West Longitude, and thence to a point on the mean high tide line at 33° 26′ 53.5″ North Latitude 118° 28′ 35″ West Longitude.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 683

An act to amend Section 30638 of, and to repeal Section 30638.1 of, the Public Utilities Code, and to amend Sections 336, 12523.5, and 34501.8 of the Vehicle Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 30638 of the Public Utilities Code is amended to read:

30638. (a) The rates, fees, and charges for service or rights furnished, leased, or otherwise transferred pursuant to this part, including, but not limited to, station cost-sharing, connector fees, and land or air rights sales or leasing, shall be fixed by a vote of two-thirds of all of the members of the board and shall be reasonable. Insofar as practicable, the rates, fees, and charges shall be determined and fixed so as to result in revenue which will make the transit system self-supporting and shall be sufficient to accomplish all of the following:

(1) Pay the operating expenses of the district.

(2) Provide for repairs, maintenance, and depreciation of works owned or operated by the district.

(3) Provide for the purchase, lease, or acquisition of equipment under Article 3 (commencing with Section 30940) of Chapter 7.

(4) Provide for the payment of the interest and principal of the bonded debt, subject to the applicable provisions of this part authorizing the issuance and retirement of bonds.

(5) Provide for the payment of contracts, agreements, leases, equipment, trust certificates, and other legal liabilities assumed under Chapter 8 (commencing with Section 31000).

(b) After making any current allocations of funds required for the purposes prescribed by pargraphs (1) to (5), inclusive, of subdivision (a) and by the terms of any indebtedness incurred under Article 1 (commencing with Section 30900), Article 2 (commencing with Section 30930), and Article 5 (commencing with Section 30960) of Chapter 7, the board may provide funds for any purpose the board deems necessary and desirable to carry out the purposes of this part.

(c) This section does not constitute a covenant to the holders of any bonds or other evidences of indebtedness of the district unless the ordinance, resolution, or indenture providing for the issuance of those instruments so provides.

SEC. 2. Section 30638.1 of the Public Utilities Code is repealed.

SEC. 3. Section 336 of the Vehicle Code is amended to read:

336. "General public paratransit vehicle" is any motor vehicle designed for carrying no more than 19 persons and the driver, and

which provides local transportation to the general public under the exclusive jurisdiction of a publicly owned and operated transit system through one of the following modes: dial-a-ride, subscription service, or route-deviated bus service. Vehicles used in the exclusive transportation of the handicapped, as defined by Section 22511.5, or of persons 55 years of age or older, including any persons necessary to provide assistance to these passengers, are not general public paratransit vehicles.

This section shall become operative July 1, 1988.

SEC. 4. Section 12523.5 of the Vehicle Code is amended to read:

12523.5. (a) On or after July 1, 1989, no person shall operate a general public paratransit vehicle unless he or she has in his or her possession a valid driver's license of the appropriate class and a certificate issued by the department to permit the operation of a general public paratransit vehicle.

(b) Applicants for a certificate to drive a general public paratransit vehicle shall pay a fee of twelve dollars ($12) to the Department of the California Highway Patrol and shall present evidence that they have successfully completed a driver training course consisting of a minimum of 40 hours of instruction within the previous two years. The instruction shall have covered applicable laws and regulations and defensive driving practices, a minimum of eight hours of certified defensive driving, and a minimum of 20 hours of behind-the-wheel training in a vehicle to be used as a general public paratransit vehicle. Applicants seeking to renew a certificate valid for driving a general public paratransit vehicle shall present evidence that they have received two hours of refresher training during each 12 months of driver certificate validity.

(c) The driver certificate shall be issued only to applicants qualified by examinations prescribed by the Department of Motor Vehicles and the Department of the California Highway Patrol. The examinations shall be conducted by the Department of the California Highway Patrol. The Department of Motor Vehicles may deny, suspend, or revoke a certificate valid for driving a general public paratransit vehicle for the causes specified in regulations adopted by the Department of the California Highway Patrol for schoolbus drivers.

(d) An operator of a general public paratransit vehicle shall do all of the following:

(1) Use seat belts.

(2) Refrain from smoking.

(3) Report any accident reportable under Section 16000 to the Department of the California Highway Patrol.

This section shall become operative on January 1, 1989.

SEC. 5. Section 34501.8 of the Vehicle Code is amended to read:

34501.8. (a) The Department of the California Highway Patrol shall inspect every general public paratransit vehicle, as defined in Section 336, at least once each year to certify that its condition complies with all provisions of law, including being equipped with a

fire extinguisher, first-aid kit, and three-point tie downs for transporting wheelchair passengers.

(b) On or after July 1, 1989, no person shall drive any general public paratransit vehicle unless there is displayed therein a certificate issued by the Department of the California Highway Patrol stating that on a certain date, which shall be within 13 months of the date of operation, an authorized employee of the Department of the California Highway Patrol inspected the general public paratransit vehicle and found that on the date of inspection the general public paratransit vehicle complied with the applicable provisions of state law. The Commissioner of the California Highway Patrol shall provide, by rule or regulation, for the issuance and display of distinctive inspection certificates.

(c) The Commissioner of the California Highway Patrol shall determine a fee and method of collection for the annual inspection of general public paratransit vehicles. The fee, established by regulation, shall be sufficient to cover the cost to the department for general public paratransit vehicle inspections. All fees received shall be deposited in the Motor Vehicle Account in the State Transportation Fund.

This section shall become operative January 1, 1989.

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

In order to provide transit districts with more flexibility in setting rates at the earliest possible time by eliminating a requirement regarding the funding of public mass transportation demonstration projects, and to allow the Department of the California Highway Patrol to implement its inspection and certification program of specified public transit vehicles by on January 1, 1989, it is necessary that this act take effect immediately.

CHAPTER 684

An act to amend Section 7682 of the Labor Code, relating to occupational safety.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 7682 of the Labor Code is amended to read:

7682. The division shall inspect or cause to be inspected each installed fired boiler internally and externally at least every year, except that the division may grant extensions to permit the interval between internal inspections to be increased to a maximum interval

of 36 months where operating experience and design of the boiler has demonstrated to the satisfaction of the division that equivalent safety will be maintained.

For other classes of boilers, the division shall establish internal inspection intervals which will ensure the safety of people working in the vicinity of the boiler. In determining the intervals, the division shall consider such factors as the design and construction of the boilers and the conditions under which they operate.

External inspection shall be made of all boilers at the time of the internal inspection and at any other intervals as are deemed necessary by the division acting through qualified safety engineers and certified inspectors.

CHAPTER 685

An act to amend Sections 830.3 and 832.7 of the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor August 27, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of that offense, or pursuant to Section 8597 or 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control, provided that the primary duty of any such peace officer shall be the enforcement of the laws relating to alcoholic beverages, as that duty is set forth in Section 25755 of the Business and Professions Code.

(b) Persons employed by the Division of Investigation of the Department of Consumer Affairs and investigators of the Board of Medical Quality Assurance and the Board of Dental Examiners, who are designated by the Director of Consumer Affairs, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 160 of the Business and Professions Code.

(c) Voluntary fire wardens as are designated by the Director of

Forestry pursuant to Section 4156 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 4156 of that code.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 1655 of that code.

(e) Investigators of the California Horse Racing Board designated by the board, provided that the primary duty of any such peace officer shall be the enforcement of Chapter 4 (commencing with Section 19400) of Division 8 of the Business and Professions Code and Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 13104 of that code.

(g) Inspectors of the food and drug section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as that duty is set forth in Section 216 of that code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, provided that the primary duty of any such peace officer shall be enforcement of the law as prescribed in Section 95 of the Labor Code.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, and the Public Employees' Retirement System, provided that the primary duty of any such peace officer shall be the enforcement of the law relating to the duties of his or her department, or office. Notwithstanding any other provision of law, investigators of the Public Employees' Retirement System shall not carry firearms.

(j) Marshals and police appointed by the Board of Directors of the California Exposition and State Fair, pursuant to Section 3332 of the Food and Agricultural Code, provided that the primary duty of the peace officer shall be the enforcement of the law as prescribed in that section.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of Section 556 of the Insurance Code.

(*l*) Employees of the Department of Housing and Community Development designated under Section 18023 of the Health and Safety Code, provided that the primary duty of any such peace

officer shall be the enforcement of the law as that duty is set forth in Section 18023 of that code.

(m) Investigators of the office of the Controller, provided that the primary duty of any such investigator shall be the enforcement of the law relating to the duties of that office. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(n) Investigators of the Department of Corporations designated by the Commissioner of Corporations, provided that the primary duty of these investigators shall be enforcement of the provisions of law administered by the Department of Corporations. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(o) Persons employed by the Contractors' State License Board designated by the Director of Consumer Affairs pursuant to Section 7011.5 of the Business and Professions Code, provided that the primary duty of these persons shall be the enforcement of the law as that duty is set forth in Section 7011.5, and in Chapter 9 (commencing with Section 7000) of Division 3, of that code. The Director of Consumer Affairs may designate as peace officers not more than three persons who shall at the time of their designation be assigned to the special investigations unit of the board. Notwithstanding any other provision of law, the persons designated pursuant to this subdivision shall not carry firearms.

(p) The chief and coordinators of the Law Enforcement Division of the Office of Emergency Services.

(q) Investigators of the office of the Secretary of State, designated by the Secretary of State, provided that the primary duty of any such peace officer shall be the enforcement of the law as prescribed in Chapter 3 (commencing with Section 8200) of Division 1 of Title 2 of the Government Code. Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

(r) The Deputy Director for Security, as designated by Section 8880.38 of the Government Code, and all lottery security personnel assigned to the California State Lottery and designated by the director, provided that the primary duty of any of those peace officers shall be the enforcement of the laws related to assuring the integrity, honesty, and fairness of the operation and administration of the California State Lottery.

(s) Investigators employed by the Investigation Division of the Employment Development Department, designated by the director of the department, provided that the primary duty of those peace officers shall be the enforcement of the law as that duty is set forth in Section 317 of the Unemployment Insurance Code.

Notwithstanding any other provision of law, the peace officers designated pursuant to this subdivision shall not carry firearms.

SEC. 2. Section 832.7 of the Penal Code is amended to read:

832.7. Peace officer personnel records and records maintained

pursuant to Section 832.5, or information obtained from these records, are confidential and shall not be disclosed in any criminal or civil proceeding except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. This section shall not apply to investigations or proceedings concerning the conduct of police officers or a police agency conducted by a grand jury, a district attorney's office, or the Attorney General's office.

CHAPTER 686

An act to amend Section 37220 of the Education Code, relating to schools.

[Approved by Governor August 27, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 37220 of the Education Code is amended to read:

37220. (a) Except as otherwise provided, the public schools shall close on the following holidays:

(1) January 1.

(2) The third Monday in January or Monday or Friday in the week in which January 15th occurs known as "Dr. Martin Luther King, Jr. Day." On the Friday preceding which day the schools are closed, schools shall include exercises commemorating and directing attention to the history of the civil rights movement in the United States and particularly the role therein of Dr. Martin Luther King, Jr.

(3) February 12th known as "Lincoln Day." On the day that school is in session prior to February 12th, all public schools and educational institutions throughout the state shall hold exercises in memory of Abraham Lincoln.

(4) The third Monday in February known as "Washington Day." On the Friday preceding, all public schools and educational institutions throughout the state shall hold exercises in memory of George Washington.

(5) The last Monday in May known as "Memorial Day."

(6) July 4th.

(7) The first Monday in September known as "Labor Day."

(8) November 11th known as "Veterans Day."

(9) That Thursday in November proclaimed by the President as "Thanksgiving Day."

(10) December 25th.

(11) All days appointed by the Governor for a public fast, thanksgiving, or holiday and all special or limited holidays on which the Governor provides that the schools shall close.

(12) All days appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(13) Any other day designated as a holiday by the governing board of the school district.

(b) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(c) When any of the holidays on which the schools would be closed falls on Saturday, the public schools shall close on the preceding Friday, and that Friday shall be declared a state holiday.

(d) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different from the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

CHAPTER 687

An act to amend Section 2613 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 2613 of the Unemployment Insurance Code is amended to read:

2613. The Director of Employment Development shall develop and maintain a program of education concerning disability insurance rights and benefits. The director shall provide to each employer of employees subject to this part a notice informing workers of their disability insurance rights and benefits due to sickness, injury, or pregnancy. The notice shall be given by every employer to each new employee hired on or after July 1, 1988 and to each employee leaving work due to pregnancy or nonoccupational sickness or injury on or after July 1, 1989.

CHAPTER 688

An act to amend Sections 44987 and 87768.5 of the Education Code, and to amend Section 20819.5 of the Government Code, relating to public employees.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 44987 of the Education Code is amended to read:

44987. (a) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local school district public employee organization, or any statewide or national public employee organization with which the local organization is affiliated.

The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the school district as employer. The required employer contribution rate shall be the contribution rate for additional service credit less the member contribution rate prescribed by Section 22804. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22804. The maximum amount of the service credit earned shall not exceed twelve calendar years. Any employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the State Teachers' Retirement System while on the leave of absence.

Following the school district's payment of the employee for the leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code.

For purposes of this section, "school district" also means "county superintendent of schools."

(b) An employee who after August 31, 1978, was absent on

account of elected-officer service, shall receive full service credit in the State Teachers' Retirement System; provided that, not later than April 30, 1981: (1) the employee makes a written request to the employer for a leave of absence for the period of the elected-officer service, and (2) the employee organization of which the employee is an elected officer pays to the employee's school district an amount equal to the required State Teachers' Retirement System member and employer retirement contributions, as prescribed by this section.

The school district, following this written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

In the event that the employee has been compensated by the school district for the period of the service, then, as a condition to the employee's entitlement to service credit for this period, the school district shall be reimbursed by the employee organization for the amount of the compensation.

The provisions of this subdivision shall apply retroactively to all service as an elective officer in a public employee organization occurring after August 31, 1978.

SEC. 2. Section 87768.5 of the Education Code is amended to read:

87768.5. (a) The governing board of a community college district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling the employee to serve as an elected officer of any local community college district public employee organization, or of any statewide or national public employee organization with which the local organization is affiliated.

The leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of the organization on which the employee serves as an officer. Compensation during the leave shall include retirement fund contributions required of the community college district as employer. Required retirement contributions shall include the amount necessary to pay any unfunded liability cost for the retirement plan. The employee shall earn full service credit during the leave of absence and shall pay member contributions as prescribed by Section 22804. The maximum amount of the service credit earned shall not exceed twelve calendar years. Any employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the State Teachers' Retirement System while on the leave of absence.

Following the community college district's payment of the employee for the leave of absence, the community college district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the

employee on account of the leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the community college district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code.

(b) An employee who after August 31, 1978, was absent on account of elected-officer service, shall receive full service credit in the State Teachers' Retirement System; provided that, not later than April 30, 1983: (1) the employee makes a written request to the employer for a leave of absence for the period of the elected-officer service, and (2) the employee organization of which the employee is an elected officer pays to the employee's community college district an amount equal to the required State Teachers' Retirement System member and employer retirement contributions, as prescribed by this section.

The community college district, following the written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of the elected-officer leave of absence.

In the event that the employee has been compensated by the community college district for the period of the service, then, as a condition to the employee's entitlement to service credit for the period, the community college district shall be reimbursed by the employee organization for the amount of the compensation.

The provisions of this subdivision shall apply retroactively to all service as an elected officer in a public employee organization occurring after August 31, 1978.

SEC. 3. Section 20819.5 of the Government Code is amended to read:

20819.5. (a) Notwithstanding any other provision of this part, a school member who is on an approved leave of absence to serve as an elected officer of an employee organization pursuant to Section 45210 or 88210 of the Education Code, shall receive the service credit he or she would have received if he or she were not on leave, and shall have benefits he or she is entitled to under this part, based upon the salary that he or she would receive if he or she were not on leave. Both the member and his or her employer shall contribute to the retirement fund the amount that would have been contributed had the member not been on leave.

(b) The school employer shall verify the eligibility of the applicant for the elected officer's leave of absence. Service credited pursuant to this section shall not exceed twelve years.

(c) The employer shall maintain the necessary records to

separately identify each employee receiving service credit pursuant to this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 689

An act to amend Sections 18904.2 and 18911 of, to add Section 18904.25 to, and to repeal Sections 18904.3 and 18911 of, the Welfare and Institutions Code, relating to food stamps.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. This act shall be known and may be cited as the Food Stamp Program Information Act of 1988.

SEC. 2. (a) The Legislature finds and declares that many homeless individuals and families are not receiving adequate nutrition and do not participate in the Food Stamp Program, this endangering their health and well-being.

(b) Accordingly, the Legislature declares that the Food Stamp Program Information Act of 1988 is enacted to provide Food Stamp Program information and application assistance to help homeless individuals and families provide for their basic food needs.

SEC. 3. Section 18904.2 of the Welfare and Institutions Code is amended to read:

18904.2. The department may administer outreach programs and adopt rules and regulations requiring counties to conduct outreach programs to the extent permitted by federal law and eligible for federal financial participation.

SEC. 4. Section 18904.25 is added to the Welfare and Institutions Code, to read:

18904.25. (a) Pursuant to the federal Stewart B. McKinney Homeless Assistance Act (Public Law 100-77), the department shall develop Food Stamp Program information on expedited services targeted to the homeless population. These shall be made available to homeless shelters, emergency food programs, and other community agencies who provide services to homeless people.

(b) Each county welfare department shall annually offer training on food stamp application procedures to homeless shelter operators. In addition, each county welfare department, upon request, shall provide homeless shelters with a supply of that portion of the food stamp application used to request food stamp expedited service.

SEC. 5. Section 18904.3 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 18911 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1293 of the Statutes of 1987, is amended to read:

18911. (a) An application and an authorization for participation in the Food Stamp Program shall be processed within a period of not more than 30 days from the date of application.

(b) The department shall develop written information that describes the eligibility and verification requirements for expedited service, the process for applying for those benefits, and the availability of assistance in filling out the forms and gathering needed documentation.

(c) Each county welfare department shall make the material developed pursuant to subdivision (b) available to each applicant at the time the applicant initially seeks food stamp benefits.

(d) Each county welfare department shall, upon request, make available the information developed pursuant to subdivision (b) to community action agencies, legal services offices, emergency food programs, and other programs.

(e) Each county welfare department shall compile a list of emergency food providers in the area served by the local food stamp office. The list shall be updated, based on information from the food providers. The list shall be made available upon request, and, where needed, may be used to refer individuals to emergency food sites that may be able to provide assistance.

(f) Each county welfare department shall make available to food stamp applicants, upon request, nonpromotional information that contains addresses and phone numbers of local legal services and welfare rights organizations.

SEC. 7. Section 18911 of the Welfare and Institutions Code, as added by Section 4.5 of Chapter 1293 of the Statutes of 1987, is repealed.

SEC. 8. The State Department of Social Services shall promulgate such regulations, procedures, and forms as are necessary to implement this act on a uniform, statewide basis. The Director of Social Services shall adopt emergency regulations implementing this act within 120 days of the effective date of this act.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 690

An act to add Article 3 (commencing with Section 66915) to Chapter 11 of Part 40 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor August 28, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Article 3 (commencing with Section 66915) is added to Chapter 11 of Part 40 of the Education Code, to read:

Article 3. Higher Education Equity Assessment Act of 1988

66915. As used in this article:

(a) "Educational equity" means the development and maintenance of institutional policies, programs, practices, attitudes, and expectations, that are conducive to, and serve to encourage, the achievement of appropriate educational goals by all students at the institution, in particular women and students from minority groups traditionally underrepresented in higher education.

(b) "Multicultural success" means the development, within each student attending public higher educational institutions, of various demensions and capacities that are essential for living, working, and contributing successfully in a multiracial and multicultural society, including a personal familiarity, sensitization, and comfort with other cultures.

66916. The Legislature finds and declares all of the following:

(a) The State of California has and operates the premier system of public higher education in the entire world.

(b) By the year 2002, the State of California will become the first state in the continental United States with no racial majority, wherein Latinos will constitute 33 percent, Asians 12 percent, Blacks 9 percent, and Anglos 46 percent of our total population.

(c) The State of California, therefore, has the opportunity and the challenge to create the world's first truly healthy multicultural state and society.

(d) Given the growing multicultural diversity of postsecondary educational institutions, the State of California has a fundamental interest in demanding institutional accountability on questions of educational equity.

(e) Future success in adapting to the growing diversity of the state's population will depend, in part, on the development of multiple measures of the level of educational equity and the degree of multicultural success being provided in California's postsecondary educational institutions.

(f) A primary goal of every educational institution should be to

ensure an equitable educational environment for each student, regardless of gender or race.

(g) A primary measure of the effectiveness of a postsecondary education institution should be its success in providing an equitable educational environment for its students.

(h) Institutions of higher education currently have few if any systematic measures for evaluating the extent to which an equitable educational environment is being provided for students generally.

(i) Most existing measures of equity in higher education focus on numerical data, such as application, admission, and graduation rates. These measures provide a quantitative indication of what is happening to underrepresented students who aspire to postsecondary degrees, but provide almost no information on the reasons why some students achieve their educational objectives and others do not.

(j) The purposes of this article are to do the following:

(1) Determine and assess the obstacles, practices, programs, and attitudes, both personal and institutional, which serve to deter women and minority students from traditionally underrepresented groups from fully realizing their educational potential during their tenure at postsecondary educational institutions.

(2) Develop standard qualitative techniques for assessing educational equity, such as student and faculty surveys on questions of differential treatment and educational equity, as well as exit interviews with students leaving school before degree completion. These techniques can provide important information explaining the causes of changes in student performance as measured through application, admission, and graduation rates. This information also can be utilized for purposes of intercampus and intersegmental comparisons of the perceived levels of educational equity being provided for students.

66917. The California Postsecondary Education Commission, after consulting with students, faculty, staff, and administrators from, and members of the governing boards of, the University of California, the California State University, and the California Community Colleges, shall develop an assessment of the feasibility and present possible options for all of the following:

(a) A program of systematic longitudinal data collection utilizing information obtained through surveys of students and faculty, focusing on the relative significance of various factors that contribute or detract from an equitable and high quality educational experience, particularly by women and students from historically underrepresented groups. Of special importance are factors influencing the perceived level of equity being provided in students' educational experiences. This data collection program may specifically examine, but need not be limited to, the following factors:

(1) The quantity and quality of student-faculty classroom interaction.

(2) The quantity and quality of student-faculty contact in academic advising.

(3) The nature of student-faculty academic interaction.

(4) The quantity and quality of academic and social interactions between students.

(5) The quantity and quality of advising provided to community college students who aspire to transfer into four-year institutions.

(6) The level and source of faculty support provided to students in graduate and professional programs.

(7) The level of departmental support provided to students in graduate and professional programs.

(8) The extent to which educational expenses, including the level of student loan indebtedness, have influenced students' academic and professional career choices.

(b) A program of longitudinal data collection utilizing information obtained through exit interviews with students leaving school prior to degree completion. These interviews may focus on assessing the relative significance of the various factors contributing to the decision to leave school, as well as other factors relating to the quality and equity of students' educational experiences.

(c) A program to link data obtained through the above-described programs with existing numerical data including, but not limited to, applicant, admissions, and retention statistics for the purpose of identifying and evaluating all of the following:

(1) The underlying causes of student attrition.

(2) Changes in student performance as measured through applicant, admission, and graduation rates.

(3) Intercampus and intersegmental comparisons of the perceived levels of educational quality and equity being provided for students.

(4) The likely effectiveness of existing and proposed affirmative action programs, equal opportunity programs, women's reentry programs, special admissions support, and outreach programs.

(5) Institutional policies and practices designed to address primary student concerns and to ensure an equitable educational environment at these institutions.

(d) An examination of the feasibility of developing the above-described programs so that data will be comparable between the University of California, the California State University, and the California Community Colleges.

(e) An estimate of the resources each segment would need to implement the proposed data collection mechanism.

66918. The California Postsecondary Education Commission shall submit a report to the Governor and Legislature on or before January 1, 1990, detailing the results of this study and recommendations for implementation of state policy to achieve the intent of this article.

66919. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the California Postsecondary Education Commission for the purposes of the funding of Article 3

(commencing with Section 66915) of Chapter 11 of Part 40 of the Education Code.

CHAPTER 691

An act to amend Section 15432 of the Government Code, relating to health facilities.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means the California Health Facilities Financing Authority Act.

(b) "Authority" means the California Health Facilities Financing Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion of a project financed under this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period not to exceed the later of one year or one year following completion of construction, as determined by the authority, the cost of funding or financing noncapital expenses, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses of funding or financing or necessary or incident to determining the feasibility of constructing, any project or incident to the construction or acquisition or financing of any project.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, or developmental disability, including convalescence and rehabilitation

and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities, adult day care facilities, as defined under paragraph (2) of subdivision (a) of Section 1502 of the Health and Safety Code, which provide services to developmentally disabled or mentally impaired persons, community clinics, as defined in paragraph (6), and child day care facilities, as defined in paragraph (10), and includes all of the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A community clinic which is a clinic operated by a tax-exempt nonprofit corporation which is supported and maintained in whole or in part by donations, bequests, gifts, grants, government funds or contributions, which may be in the form of money, goods, or services. In a community clinic, any charges to the patient shall be based on the patient's ability to pay, utilizing a sliding fee scale. No corporation other than a nonprofit corporation, exempt from federal income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the

licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An adult day health center which is a facility, as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

(10) A child day care facility operated in conjunction with a health facility. A child day care facility is a facility, as defined in Section 1596.750 of the Health and Safety Code. For purposes of this paragraph, "child" means a minor from birth to 18 years of age.

(11) An intermediate care facility/developmentally disabled habilitative which is a health facility, as defined under subdivision (e) of Section 1250 of the Health and Safety Code.

(12) An intermediate care facility/developmentally disabled-nursing which is a health facility, as defined under subdivision (h) of Section 1250 of the Health and Safety Code.

(13) A community care facility which is a facility, as defined under subdivision (a) of Section 1502 of the Health and Safety Code, which provides care, habilitation, rehabilitation, or treatment services to developmentally disabled or mentally impaired persons.

"Health facility" includes a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses or interns residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" also includes: (i) an insurance company or insurance program organized pursuant to subdivision (q) of Section 15438; or (ii) the funding of reserves (including insurance or capital reserves), or payment of premiums to, a reciprocal insurance

company or one or more participating health institutions if the funds are used in connection with one or more of the above types of facilities: liability insurance or self-insurance, for a participating health institution, including reserves therefor, and other funds necessary or usual and appropriate in connection therewith.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project or of working capital as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping, or funding or financing of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

(g) "Working capital" means moneys to be used by, or on behalf of, a participating health institution to pay or prepay maintenance or operation expenses or any other costs that would be treated as an expense item, under generally accepted accounting principles, in connection with the ownership or operation of a health facility, including, but not limited to, reserves for maintenance or operation expenses, interest for not to exceed one year on any loan for working capital made pursuant to this part, and reserves for debt service with respect to, and any costs necessary or incidental to, that financing.

CHAPTER 692

An act to add Section 1418.4 to the Health and Safety Code, relating to long-term health care facilities.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 1418.4 is added to the Health and Safety Code, to read:

1418.4. (a) No licensed skilled nursing facility or intermediate care facility may prohibit the formation of a family council, and, when requested by a member of the resident's family or the resident's responsible party, the family council shall be allowed to meet in a common meeting room of the facility during mutually

agreed upon hours.

(b) Facility policies on family councils shall in no way limit the right of residents and family members to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.

(c) "Family council" for the purpose of this section means a meeting of family members, friends, responsible parties, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more patients to confer in private without facility staff.

(d) Family councils shall also be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, and newsletters.

CHAPTER 693

An act to add Section 5683.5 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 5683.5 is added to the Welfare and Institutions Code, to read:

5683.5. Community support systems may provide temporary funds to their homeless clients for their personal incidental living needs while the clients are in residential placement. Up to seventy-five dollars ($75) may be made available monthly to each client for this purpose. Local mental health programs shall, to the extent possible, recoup payments from clients after they become eligible for a governmental assistance program, including, but not limited to, general relief or SSI/SSP funds or otherwise become financially able to repay the county community support system.

CHAPTER 694

An act to amend Section 14131 of the Corporations Code, relating to small business development.

[Approved by Governor August 28, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14131 of the Corporations Code is amended to read:

14131. (a) The UDC's or RDC's guarantee shall be backed by funds on deposit in the UDC's or RDC's own loan guarantee fund account established pursuant to Articles 5 (commencing with Section 14040) and 6 (commencing with Section 14045).

(b) Loan guarantees shall be secured by a reserve of at least 25 percent to be determined by the Executive Director of the Office of Small Business with the approval of the board. The guarantee percentage rate shall be set by the Executive Director of the Office of Small Business upon the approval of the board.

(c) The UDC or RDC shall guarantee loans wherever possible. However, earnings from the trust funds may be used for direct lending provided that UDC or RDC direct loan funds do not constitute more than one-third of the loan, with the following exceptions:

(1) If a firm has received a Phase 1 or Phase 2 Small Business Innovation Research Grant awarded by a federal agency and is suffering cash flow problems because of delay in receipt of grant funds from the date of incurring expenses related to the grant project, a UDC or RDC may advance an interim loan covering 80 percent of the project expenses from trust fund earnings, provided the firm assigns proceeds of grant invoices (or other documentations submitted by the firm to the federal agency for payment) to the corporation for payment of the interim loan advanced and the federal agency agrees to the assignment.

(2) Any RDC that is making a direct loan to a farmer or farm corporation may use trust funds from both the income and trust account, provided that at least 50 percent of the direct loan portfolio is guaranteed by a governmental agency, excluding any state government agency. The total amount of direct loans issued by a corporation shall not exceed 33 percent of the trust fund, including trust income, as determined at the time each loan is made. Only unencumbered funds shall be available for direct lending. Each RDC shall submit an application to the department for participation in the direct loan program under this section. In its capacity as a direct lender, the RDC may sell in the secondary market the guaranteed portion of each loan so as to raise additional funds for direct lending. Funds raised through the secondary market shall not be considered in arriving at the percentage of the loan portfolio to be guaranteed by a government agency above. Any direct loan made by an RDC under this section shall not exceed three hundred fifty thousand dollars ($350,000). The department, in consultation with the board, shall issue regulations governing these direct loans on or before March 1, 1988.

(d) In furtherance of the purposes of this part, up to one-half of the corporate loan guarantee funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.

(e) The UDC or RDC may assume a negotiated equity position of

not more than 5 percent of the current equity in an eligible small business, in lieu of part or all of the fees chargeable to such business or through direct purchase, provided state funds are not used to purchase the equity position. An equity position of 5 percent or less shall not be construed as a conflict of interest in terms of financial and technical assistant participation.

(f) As a method of implementing the direct loan programs established in this chapter, the Office of Small Business may loan trust funds to an RDC for the express purpose of lending those funds to an identified borrower. The loan by the Office of Small Business to the RDC shall be in the amount and terms similar to the loan between the RDC and the borrower. The loan between the Office of Small Business and the RDC shall be evidenced by the loan agreement between the RDC and the borrower and collateralized by the note between the RDC and the borrower. In the absence of fraud on the part of the RDC, the liability of the RDC to repay the loan to the Office of Small Business is limited to the repayment received by the corporation from the borrower.

CHAPTER 695

An act to amend Section 14136 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14136 of the Welfare and Institutions Code is amended to read:

14136. (a) No city or county shall establish equipment and personnel standards for the furnishing of nonemergency medical transportation services for eligible Medi-Cal beneficiaries which are in conflict with equipment and personnel standards for reimbursement established by the department pursuant to this chapter. No standard adopted by cities or counties shall require the use of ambulances to supply nonemergency medical transportation, where that standard would conflict with Section 14136.1.

(b) No city or county shall establish any permit, license, or inspection fees in excess of the actual cost of providing services directly associated with the provision of a permit, license, or inspection of nonemergency medical transportation vehicles.

(c) Prior to collection of any permit, license, or inspection fees, the city or county shall provide the nonemergency medical transportation provider from whom the fees will be collected with an itemized cost analysis specifying how the fees will be used.

(d) Nothing in this section shall be construed to otherwise limit

the authority of a city or county to license, inspect, or regulate nonemergency medical transportation services so long as the regulation is not in conflict with standards established by the department.

(e) Nothing in this section shall be construed to prevent a city or county from allowing both emergency and nonemergency medical transportation services to operate within its jurisdiction under a sole franchise when such a franchise has been determined necessary to assure the economic viability of those services.

(f) Nothing in this section shall be construed to restrict the authority of local government to issue or deny licenses or permits to operate medical transportation services within its jurisdiction on the basis of need and necessity findings.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 696

An act to amend Section 14131 of the Corporations Code, and to add Section 26053 to the Financial Code, relating to commercial loans.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 14131 of the Corporations Code is amended to read:

14131. (a) The UDC's or RDC's guarantee shall be backed by funds on deposit in the UDC's or RDC's own loan guarantee fund account established pursuant to Articles 5 (commencing with Section 14040) and 6 (commencing with Section 14045).

(b) Loans made under an UDC or RDC guarantee shall be secured by a 100 percent reserve. The guarantee portion may be no more than 90 percent of the required total financing arranged from all lending sources. However, the guaranteed portion may be 100 percent for revolving lines of credit, personal farm operating loans, interim financing where another lender or guarantor will take out the corporation's position within 180 days, loans to UDC's or RDC's, and loans where traditional lenders have turned down the loan

because it is too small.

(c) The UDC or RDC shall guarantee loans wherever possible. However, earnings from the trust funds may be used for direct lending provided that UDC or RDC direct loan funds do not constitute more than one-third of the loan, with the following exceptions:

(1) If a firm has received a Phase 1 or Phase 2 Small Business Innovation Research Grant awarded by a federal agency and is suffering cash flow problems because of delay in receipt of grant funds from the date of incurring expenses related to the grant project, a UDC or RDC may advance an interim loan covering 80 percent of the project expenses from trust fund earnings, provided the firm assigns proceeds of grant invoices (or other documentations submitted by the firm to the federal agency for payment) to the corporation for payment of the interim loan advanced and the federal agency agrees to the assignment.

(2) Any RDC that is making a direct loan to a farmer or farm corporation may use trust funds from both the income and trust account, provided that the direct loan is guaranteed or that at least 50 percent of the direct loan portfolio is guaranteed by a governmental agency, excluding any state government agency. The total amount of direct loans issued by a corporation shall not exceed 33 percent of the trust fund, including trust income, as determined at the time each loan is made. Only unencumbered funds shall be available for direct lending. Each RDC shall submit an application to the department for participation in the direct loan program under this section. In its capacity as a direct lender, the RDC may sell in the secondary market the guaranteed portion of each loan so as to raise additional funds for direct lending. Funds raised through the secondary market shall not be considered in arriving at the percentage of the loan portfolio to be guaranteed by a government agency above. Any direct loan made by an RDC under this section shall not exceed three hundred fifty thousand dollars ($350,000). The department, in consultation with the board, shall issue regulations governing these direct loans.

(d) In furtherance of the purposes of this part, up to one-half of the corporate loan guarantee funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.

(e) The UDC or RDC may assume a negotiated equity position of not more than 5 percent of the current equity in an eligible small business, in lieu of part or all of the fees chargeable to such business or through direct purchase, provided state funds are not used to purchase the equity position. An equity position of 5 percent or less shall not be construed as a conflict of interest in terms of financial and technical assistant participation.

(f) As a method of implementing the direct loan programs established in this chapter, the Office of Small Business may loan

trust funds to an RDC for the express purpose of lending those funds to an identified borrower. The loan by the Office of Small Business to the RDC shall be in the amount and terms similar to the loan between the RDC and the borrower. The loan between the Office of Small Business and the RDC shall be evidenced by a credit agreement secured by assignment of any note, executed in favor of the RDC by the borrower to the Office of Small Business. The terms and conditions of the credit agreement shall be similar to the loan agreement between the RDC and the borrower which shall be collateralized by the note between the RDC and the borrower. In the absence of fraud on the part of the RDC, the liability of the RDC to repay the loan to the Office of Small Business is limited to the repayment received by the corporation from the borrower, except in a case where the Farmers Home Administration requires exposure by the RDC in rule or regulation. Interest and principal received by the Office of Small Business from the RDC shall be deposited in the small business development corporation loan guarantee account of that RDC.

SEC. 1.5. Section 14131 of the Corporations Code is amended to read:

14131. (a) The UDC's or RDC's guarantee shall be backed by funds on deposit in the UDC's or RDC's own loan guarantee fund account established pursuant to Articles 5 (commencing with Section 14040) and 6 (commencing with Section 14045).

(b) Loan guarantees shall be secured by a reserve of at least 25 percent to be determined by the Executive Director of the Office of Small Business with the advice of the board. The guarantee shall not exceed 90 percent on loans under one hundred fifty-five thousand dollars ($155,000) or 85 percent on loans over one hundred fifty-five thousand dollars ($155,000). The maximum guarantee percentage may be adjusted by the executive director consistent with the federal Small Business Administration requirements.

(c) The UDC or RDC shall guarantee loans wherever possible. However, earnings from the trust funds may be used for direct lending provided that UDC or RDC direct loan funds do not constitute more than one-third of the loan, with the following exceptions:

(1) If a firm has received a Phase 1 or Phase 2 Small Business Innovation Research Grant awarded by a federal agency and is suffering cash flow problems because of delay in receipt of grant funds from the date of incurring expenses related to the grant project, a UDC or RDC may advance an interim loan covering 80 percent of the project expenses from trust fund earnings, provided the firm assigns proceeds of grant invoices (or other documentations submitted by the firm to the federal agency for payment) to the corporation for payment of the interim loan advanced and the federal agency agrees to the assignment.

(2) Any RDC that is making a direct loan to a farmer or farm corporation may use trust funds from both the income and trust

account, provided that the direct loan is guaranteed or that at least 50 percent of the direct loan portfolio is guaranteed by a governmental agency, excluding any state government agency. The total amount of direct loans issued by a corporation shall not exceed 33 percent of the trust fund, including trust income, as determined at the time each loan is made. Only unencumbered funds shall be available for direct lending. Each RDC shall submit an application to the department for participation in the direct loan program under this section. In its capacity as a direct lender, the RDC may sell in the secondary market the guaranteed portion of each loan so as to raise additional funds for direct lending. Funds raised through the secondary market shall not be considered in arriving at the percentage of the loan portfolio to be guaranteed by a government agency above. Any direct loan made by an RDC under this section shall not exceed three hundred fifty thousand dollars ($350,000). The department, in consultation with the board, shall issue regulations governing these direct loans.

(d) In furtherance of the purposes of this part, up to one-half of the corporate loan guarantee funds may be used to guarantee loans utilized to establish a Business and Industrial Development Corporation (BIDCO) under Division 15 (commencing with Section 33000) of the Financial Code.

(e) The UDC or RDC may assume a negotiated equity position of not more than 5 percent of the current equity in an eligible small business, in lieu of part or all of the fees chargeable to such business or through direct purchase, provided state funds are not used to purchase the equity position. An equity position of 5 percent or less shall not be construed as a conflict of interest in terms of financial and technical assistant participation.

(f) As a method of implementing the direct loan programs established in this chapter, the Office of Small Business may loan trust funds to an RDC for the express purpose of lending those funds to an identified borrower. The loan by the Office of Small Business to the RDC shall be in the amount and terms similar to the loan between the RDC and the borrower. The loan between the Office of Small Business and the RDC shall be evidenced by a credit agreement secured by assignment of any note, executed in favor of the RDC by the borrower to the Office of Small Business. The terms and conditions of the credit agreement shall be similar to the loan agreement between the RDC and the borrower which shall be collateralized by the note between the RDC and the borrower. In the absence of fraud on the part of the RDC, the liability of the RDC to repay the loan to the Office of Small Business is limited to the repayment received by the corporation from the borrower, except in a case where the Farmers Home Administration requires exposure by the RDC in rule or regulation. Interest and principal received by the Office of Small Business from the RDC shall be deposited in the small business development corporation loan guarantee account of that RDC.

SEC. 2. Section 26053 is added to the Financial Code, to read:

26053. This division does not apply to the Department of Commerce.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 14131 of the Corporations Code proposed by both this bill and AB 3772. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 14131 of the Corporations Code, and (3) this bill is enacted after AB 3772, in which case Section 1 of this bill shall not become operative.

CHAPTER 697

An act to amend Section 1793.2 of the Civil Code, relating to warranties.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 1793.2 of the Civil Code is amended to read:

1793.2. (a) Every manufacturer of consumer goods sold in this state and for which the manufacturer has made an express warranty shall:

(1) Maintain in this state sufficient service and repair facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties or designate and authorize in this state as service and repair facilities independent repair or service facilities reasonably close to all areas where its consumer goods are sold to carry out the terms of such warranties.

As a means of complying with this paragraph, a manufacturer may enter into warranty service contracts with independent service and repair facilities. The warranty service contracts may provide for a fixed schedule of rates to be charged for warranty service or warranty repair work, however, the rates fixed by such contracts shall be in conformity with the requirements of subdivision (c) of Section 1793.3. The rates established pursuant to subdivision (c) of Section 1793.3, between the manufacturer and the independent service and repair facility, shall not preclude a good faith discount which is reasonably related to reduced credit and general overhead cost factors arising from the manufacturer's payment of warranty charges direct to the independent service and repair facility. The warranty service contracts authorized by this paragraph shall not be executed to cover a period of time in excess of one year, and may be renewed only by a separate, new contract or letter of agreement between the manufacturer and the independent service and repair facility.

(2) In the event of a failure to comply with paragraph (1) of this subdivision, be subject to Section 1793.5.

(3) Make available to authorized service and repair facilities sufficient service literature and replacement parts to effect repairs during the express warranty period.

(b) Where such service and repair facilities are maintained in this state and service or repair of the goods is necessary because they do not conform with the applicable express warranties, service and repair shall be commenced within a reasonable time by the manufacturer or its representative in this state. Unless the buyer agrees in writing to the contrary, the goods shall be serviced or repaired so as to conform to the applicable warranties within 30 days. Delay caused by conditions beyond the control of the manufacturer or his representatives shall serve to extend this 30-day requirement. Where delay arises, conforming goods shall be tendered as soon as possible following termination of the condition giving rise to the delay.

(c) The buyer shall deliver nonconforming goods to the manufacturer's service and repair facility within this state, unless, due to reasons of size and weight, or method of attachment, or method of installation, or nature of the nonconformity, delivery cannot reasonably be accomplished. If the buyer cannot return the nonconforming goods for any of these reasons, he or she shall notify the manufacturer or its nearest service and repair facility within the state. Written notice of nonconformity to the manufacturer or its service and repair facility shall constitute return of the goods for purposes of this section. Upon receipt of such notice of nonconformity the manufacturer shall, at its option, service or repair the goods at the buyer's residence, or pick up the goods for service and repair, or arrange for transporting the goods to its service and repair facility. All reasonable costs of transporting the goods when a buyer cannot return them for any of the above reasons shall be at the manufacturer's expense. The reasonable costs of transporting nonconforming goods after delivery to the service and repair facility until return of the goods to the buyer shall be at the manufacturer's expense.

(d) (1) Except as provided in paragraph (2), if the manufacturer or its representative in this state does not service or repair the goods to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either replace the goods or reimburse the buyer in an amount equal to the purchase price paid by the buyer, less that amount directly attributable to use by the buyer prior to the discovery of the nonconformity.

(2) If the manufacturer or its representative in this state is unable to service or repair a new motor vehicle, as that term is defined in subparagraph (B) of paragraph (4) of subdivision (e), to conform to the applicable express warranties after a reasonable number of attempts, the manufacturer shall either promptly replace the new motor vehicle in accordance with subparagraph (A) or promptly

make restitution to the buyer in accordance with subparagraph (B). However, the buyer shall be free to elect restitution in lieu of replacement, and in no event shall the buyer be required by the manufacturer to accept a replacement vehicle.

(A) In the case of replacement, the manufacturer shall replace the buyer's vehicle with a new motor vehicle substantially identical to the vehicle replaced. The replacement vehicle shall be accompanied by all express and implied warranties that normally accompany new motor vehicles of that specific kind. The manufacturer also shall pay for, or to, the buyer the amount of any sales or use tax, license fees, registration fees, and other official fees which the buyer is obligated to pay in connection with the replacement, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(B) In the case of restitution, the manufacturer shall make restitution in an amount equal to the actual price paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, but excluding nonmanufacturer items installed by a dealer or the buyer, and including any collateral charges such as sales tax, license fees, registration fees, and other official fees, plus any incidental damages to which the buyer is entitled under Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(C) When the manufacturer replaces the new motor vehicle pursuant to subparagraph (A), the buyer shall only be liable to pay the manufacturer an amount directly attributable to use by the buyer of the replaced vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. When restitution is made pursuant to subparagraph (B), the amount to be paid by the manufacturer to the buyer may be reduced by the manufacturer by that amount directly attributable to use by the buyer prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. The amount directly attributable to use by the buyer shall be determined by multiplying the actual price of the new motor vehicle paid or payable by the buyer, including any charges for transportation and manufacturer-installed options, by a fraction having as its denominator 120,000 and having as its numerator the number of miles traveled by the new motor vehicle prior to the time the buyer first delivered the vehicle to the manufacturer or distributor, or its authorized service and repair facility for correction of the problem that gave rise to the nonconformity. Nothing in this paragraph shall in any way limit the rights or remedies available to the buyer under any other law.

(e) (1) It shall be presumed that a reasonable number of

attempts have been made to conform a new motor vehicle to the applicable express warranties if, within one year from delivery to the buyer or 12,000 miles on the odometer of the vehicle, whichever occurs first, either (A) the same nonconformity has been subject to repair four or more times by the manufacturer or its agents and the buyer has at least once directly notified the manufacturer of the need for the repair of the nonconformity, or (B) the vehicle is out of service by reason of repair of nonconformities by the manufacturer or its agents for a cumulative total of more than 30 calendar days since delivery of the vehicle to the buyer. The 30-day limit shall be extended only if repairs cannot be performed due to conditions beyond the control of the manufacturer or its agents. The buyer shall be required to directly notify the manufacturer pursuant to subparagraph (A) only if the manufacturer has clearly and conspicuously disclosed to the buyer, with the warranty or the owner's manual, the provisions of this subdivision and that of subdivision (d), including the requirement that the buyer must notify the manufacturer directly pursuant to subparagraph (A). This presumption shall be a rebuttable presumption affecting the burden of proof, and it may be asserted by the buyer in any civil action, including an action in small claims court, or other formal or informal proceeding.

(2) If a qualified third party dispute resolution process exists, and the buyer receives timely notification in writing of the availability of a third party process with a description of its operation and effect, the presumption in paragraph (1) may not be asserted by the buyer until after the buyer has initially resorted to the third party process as required in paragraph (3). Notification of the availability of the third party process is not timely if the buyer suffers any prejudice resulting from any delay in giving the notification. If a qualified third party dispute resolution process does not exist, or if the buyer is dissatisfied with the third party decision, or if the manufacturer or its agent neglects to promptly fulfill the terms of such third party decision after the decision is accepted by the buyer, the buyer may assert the presumption provided in paragraph (1) in an action to enforce the buyer's rights under subdivision (d). The findings and decision of the third party shall be admissible in evidence in the action without further foundation. Any period of limitation of actions under any federal or California laws with respect to any person shall be extended for a period equal to the number of days between the date a complaint is filed with a third party dispute resolution process and the date of its decision or the date before which the manufacturer or its agent is required by the decision to fulfill its terms if the decision is accepted by the buyer, whichever occurs later.

(3) A qualified third party dispute resolution process shall be one that does all of the following:

(A) Complies with the minimum requirements of the Federal Trade Commission for informal dispute settlement procedures as set

forth in Part 703 of Title 16 of the Code of Federal Regulations, as those regulations read on January 1, 1987.

(B) Renders decisions which are binding on the manufacturer if the buyer elects to accept the decision.

(C) Prescribes a reasonable time, not to exceed 30 days after the decision is accepted by the buyer, within which the manufacturer or its agent must fulfill the terms of its decisions.

(D) Provides arbitrators who are assigned to decide disputes with copies of, and instruction in, the provisions of the Federal Trade Commission's regulations in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, and this chapter.

(E) Requires the manufacturer, when the process orders, under the terms of this chapter, either that the nonconforming motor vehicle be replaced if the buyer consents to this remedy or that restitution be made to the buyer, to replace the motor vehicle or make restitution in accordance with paragraph (2) of subdivision (d).

(F) Provides, at the request of the arbitrator or a majority of the arbitration panel, for an inspection and written report on the condition of a nonconforming motor vehicle, at no cost to the buyer, by an automobile expert who is independent of the manufacturer.

(G) Takes into account, in rendering decisions, all legal and equitable factors, including, but not limited to, the written warranty, the rights and remedies conferred in regulations of the Federal Trade Commission contained in Part 703 of Title 16 of the Code of Federal Regulations as those regulations read on January 1, 1987, Division 2 (commencing with Section 2101) of the Commercial Code, this chapter, and any other equitable considerations appropriate in the circumstances. Nothing in this chapter requires that, to be certified as a qualified third-party dispute resolution process pursuant to this section, decisions of the process must consider or provide remedies in the form of awards of punitive damages or multiple damages, under subdivision (c) of Section 1794, or of attorney's fees under subdivision (d) of Section 1794, or of consequential damages other than as provided in subdivisions (a) and (b) of Section 1794, including, but not limited to, reasonable repair, towing, and rental car costs actually incurred by the buyer.

(H) Requires that no arbitrator deciding a dispute may be a party to the dispute and that no other person, including an employee, agent, or dealer for the manufacturer, may be allowed to participate substantively in the merits of any dispute with the arbitrator unless the buyer is allowed to participate also. Nothing in this paragraph prohibits any member of an arbitration board from deciding a dispute.

(I) Obtains and maintains certification by the Bureau of Automotive Repair pursuant to Chapter 20.5 (commencing with Section 9889.70) of Division 3 of the Business and Professions Code.

(4) For the purposes of subdivision (d) and this subdivision the following terms have the following meanings:

(A) "Nonconformity" means a nonconformity which substantially impairs the use, value, or safety of the new motor vehicle to the buyer or lessee.

(B) "New motor vehicle" means a new motor vehicle which is used or bought for use primarily for personal, family, or household purposes. "New motor vehicle" includes the chassis, chassis cab, and that portion of a motorhome devoted to its propulsion, but does not include any portion designed, used, or maintained primarily for human habitation, a dealer-owned vehicle and a "demonstrator" or other motor vehicle sold with a manufacturer's new car warranty but does not include a motorcycle or a motor vehicle which is not registered under the Vehicle Code because it is to be operated or used exclusively off the highways. A "demonstrator" is a vehicle assigned by a dealer for the purpose of demonstrating qualities and characteristics common to vehicles of the same or similar model and type.

(C) "Motorhome" means a vehicular unit built on, or permanently attached to, a self-propelled motor vehicle chassis, chassis cab, or van, which becomes an integral part of the completed vehicle, designed for human habitation for recreational or emergency occupancy.

(5) No person shall sell or lease a motor vehicle transferred by a buyer or lessee to a manufacturer pursuant to paragraph (2) of subdivision (d) unless the nature of the nonconformity experienced by the original buyer or lessee is clearly and conspicuously disclosed, the nonconformity is corrected, and the manufacturer warrants to the new buyer or lessee in writing for a period of one year that the motor vehicle is free of that nonconformity.

CHAPTER 698

An act to amend Sections 70059.7, 74642, 74643, 74644, 74645, and 74647 of the Government Code, relating to courts.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 70059.7 of the Government Code is amended to read:

70059.7. In Santa Barbara County each regular official reporter shall be paid a biweekly salary which shall be one thousand four hundred ninety-two dollars ($1,492) which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury, and before coroners' inquests.

Reporters pro tempore shall be paid at a per diem rate of up to a maximum of one hundred forty-two dollars ($142) or seventy-one dollars ($71) for each half day or four (4) hour period or portion thereof for the days they are actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date.

In such a county, the fee required by Section 70053 shall be ten dollars ($10).

In addition to any fee otherwise required, in all contested civil trials wherein the services of a court reporter have been requested by any party to the action, a per diem fee shall be charged to the party requesting such service, or, at the discretion of the court, to the parties on a pro rata basis, for each day of court reporting service or portion thereof, equal to the per diem rate established for pro tempore reporters of the court. If the court assesses the reporter's fee on a pro rata basis, the reporter and fee attached thereto may be waived upon the timely stipulation of all parties. Fees in long-cause civil trials shall be posted with the clerk's office no later than 14 days prior to the date set for master calendar. Fees in short-cause civil trials of one day or less, shall be posted with the clerk's office no later than seven days prior to the date set for the short-cause calendar.

SEC. 2. Section 74642 of the Government Code is amended to read:

74642. Within the Santa Barbara Judicial District there shall be the following officers, attachés, and employees:

	Santa Barbara Municipal Court	Salary Range
1	Account Clerk II	332
1	Assistant Clerk-Administrative Officer—SB	467
1	Accounting Technician I	378
1	Administrative Secretary	374
1	Clerk-Administrative Officer—SB	531
10	Court Clerk I	327
12	Court Clerk II	354
10	Court Clerk III	381
3	Court Clerk, Senior	391
1	Calendar Coordinator, Municipal Court	417
2	Data Entry Operator II	332

1	Data Entry Operator III	346
3	Official Court Reporter—Municipal Court	1,492
2	Own Recognizance Officer	432
1	Own Recognizance Supervisor	452
2	Commissionr, Municipal Court	2,427

	Marshal Santa Barbara Municipal Court	Salary Range
3	Court Clerk I	327
1	Court Clerk II	354
1	Clerk Principal	389
7	Deputy Marshal	430
1	Marshal—SB	515
1	Marshal's Sergeant	465
1	Assistant Marshal—SB	487

SEC. 3. Section 74643 of the Government Code is amended to read:

74643. Within the Santa Maria Judicial District there shall be the following officers, attachés, and employees:

	Santa Maria Municipal Court	Salary Range
1	Account Clerk II	332
1	Account Clerk III	359
1	Assistant Clerk-Administrative Officer—SM	433
1	Chief Deputy Clerk	398
1	Clerk-Administrative Officer—SM	490
6	Court Clerk I	327
4	Court Clerk II	354
4	Court Clerk III	381
2	Data Entry Operator II	332
1	Data Entry Operator III	346
1	Own Recognizance Officer	432
1	Own Recognizance Supervisor	452
1	Clerk Typist III	349
1	Commissioner, Municipal Court	2,427

	Marshal — Santa Maria Municipal Court	Salary Range
1	Account Clerk II	332
1	Account Clerk III	359
1	Assistant Marshal—SM	480
1	Clerk Typist II	322
4	Deputy Marshal	430
1	Marshal—SM	505

1	Marshal's Sergeant	465
1	Legal Service Specialist	374
1	Deputy Marshal—D	430

SEC. 4. Section 74644 of the Government Code is amended to read:

74644. Within the Lompoc Judicial District there shall be the following officers, attachés, and employees:

Municipal Court—Lompoc		Salary Range
1	Asst Clerk Administrative Officer—Lompoc	417
1	Clerk Administrative Officer—Lompoc	468
2	Court Clerk I	327
3	Court Clerk II	354
1	Court Clerk III	381

Marshal—Lompoc Municipal Court		Salary Range
1	Administrative Services Clerk	374
1	Deputy Marshal	430
1	Marshal—Lompoc	492
1	Clerk-Typist I/II—D	298/322

SEC. 5. Section 74645 of the Government Code is amended to read:

74645. (a) It is the purpose of this section to provide compensation for municipal court employees and officers which is comparable to that paid to county employees holding equal or comparable positions in the Santa Barbara classified service as such comparability is determined by the Santa Barbara County Board of Supervisors.

(b) Whenever reference to a numbered salary range is made in any section of this article, the schedule and the salary ordinance of the County of Santa Barbara in effect on January 1, 1988, shall apply.

(c) If the board of supervisors adopts a revised salary schedule for county employees, the new schedule shall apply equally to employees of municipal courts and marshals' offices and conversion to the new schedule shall be made for such employees in the same manner on the same date as for the classified service.

(d) Notwithstanding any of the provisions of this article, the salary and benefits of municipal court employees and officers shall be changed in the same manner and at the same rate as a salary and benefit change is effective for other permanent county classified positions. Employees and officers of the municipal court shall be entitled to all employee benefits as they are provided and made applicable to positions within the classified service pursuant to Santa Barbara County ordinances or resolutions, to the extent that the

benefits are not contrary to state law.

(e) All matters affecting the administration of salary and benefits, the selection, appointment, and reclassification of such municipal court officers and employees in those positions which they hold which are not specifically determined by the provision of state law shall be governed by the personnel ordinances and resolutions of the Board of Supervisors of the County of Santa Barbara.

(f) Nothing in this article shall be construed to place marshals' or clerks' offices, their employees and attachés under the civil service system of Santa Barbara County but such employees and attachés may be placed under that civil service system by court rule adopted by the judges of their respective courts.

(g) Any changes in compensation made pursuant to this section shall be on an interim basis and shall expire January 1 of the second calendar year following such changes unless ratified by the Legislature.

SEC. 6. Section 74647 of the Government Code is amended to read:

74647. (a) The judges of the Santa Barbara Judicial District may appoint two court commissioners. The judges of the Santa Maria Judicial District may appoint one court commissioner.

(b) Commissioners shall be appointed by a majority of the judges of the court or courts, or by the presiding judge of a two-judge court, to which the court commissioner is appointed. Commissioners shall serve at the pleasure of the majority of the judges in the court or courts or at the pleasure of the presiding judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may be removed by a majority of the judges at their discretion. Within the jurisdiction of the court or courts and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and any additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks. Commissioners shall receive a salary equal to 85 percent of the salary paid to municipal court judges in Santa Barbara County.

(c) Full-time official reporters appointed by the majority of the judges of the municipal court pursuant to the provisions of Section 72194 and so designated, shall be attachés of the court and shall receive a biweekly salary in accordance with the provisions of Section 70059.7. Such salary shall be paid at the same times and according to the same procedures as salaries of employees of the County of Santa Barbara. During the hours when the court is open for the transaction of judicial business, official reporters shall devote

full time to the performance of the duties required of them by law and shall not engage in or solicit to engage in any other employment in their professional capacity.

(d) The judges of the court may appoint as many part-time additional reporters as the business of the court requires. The additional reporters shall be known as official reporters pro tempore, and they shall serve without salary but shall receive, for reporting, fees at the per diem rate fixed by Section 70059.7. Rates of compensation of regular official reporters and official reporters pro tempore may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court, provided, however, that any changes in compensation which are made pursuant to this section shall be on an interim basis and shall remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date. In criminal cases such fees upon order of the court shall be a charge against the general fund of the county.

(e) An official reporter when not engaged in the performance of duties of the municipal court, may be appointed to serve as such reporter for the Santa Barbara County Grand Jury or in any other court in the County of Santa Barbara.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 699

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

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. On or before February 15, 1989, the Contractors' State License Board shall report to the Governor and the Legislature on the desirability of licensing interior designers. The report shall include, but not be limited to, all of the following:

(a) The degree to which the public health and safety is or is not protected in the field of interior design, and alternative approaches, if any, to achieving any necessary protection in that area

(b) An evaluation of the current status of regulation in the field of interior design and the existing or potential overlap of regulation by state regulatory entities.

(c) The degree to which individuals or businesses are prohibited

from providing interior design services due to the absence of licensure by the state, and the consequences of that prohibition to the public.

(d) The potential cost to the public of each form of regulation considered by the board, and the increased costs to the board should that regulation be adopted.

SEC. 2. (a) In order to develop the report required under Section 1, the Contractors' State License Board shall negotiate and execute a consultant services contract. To that end, the board shall obtain and evaluate competitive proposals in accordance with subdivision (c) of Section 10377 of the Public Contract Code.

(b) Within 45 days after the effective date of this act, the board shall have prepared and distributed to interested parties a request for proposals for the contract described in subdivision (a). The Department of Consumer Affairs shall provide to the board any information or points of inquiry it may suggest regarding any benefits or detriments associated with the regulation of interior designers. That information shall be transmitted to the board in a timely manner for inclusion in its request for proposals.

(c) Unless there is no qualified proposal, the board shall award the contract within 60 days after the issuance of the request for proposals.

(d) If the board is unable to adhere to the schedule set forth in this section, the registrar shall notify the department of that fact as soon as it is known.

SEC. 3. The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the Contractors' License Fund to the Contractors' State License Board for the purpose of carrying out this act.

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

In order that the information and facts essential to a prudent policy decision on the issue of whether to license interior designers can be discovered in a timely fashion, it is necessary that this act go into immediate effect.

CHAPTER 700

An act to amend Section 63.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence which consists of an area of reasonable size which is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, may jointly sell or transfer property with a full cash value of not more than the combined amount of their separate exclusions.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children.

(2) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another

person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists.

(C) Any son-in-law or daughter-in-law of the parent or parents.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(3) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(4) "Eligible transferor" means a parent or child of an eligible transferee.

(5) "Eligible transferee" means a parent or child of an eligible transferor.

(6) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(7) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(d) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

(2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferee. The written certification shall also include either or both of the following:

(A) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(B) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor which is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, and the names of the eligible transferees of that property.

(C) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the

transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee of the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking.

The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to this subdivision. Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the tax identification number of each eligible transferor, and any other information as the board shall require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(e) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(f) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986.

SEC. 2. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence which consists of an area of reasonable size which is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000 000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless

the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children.

(2) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(3) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(4) "Eligible transferor" means a parent or child of an eligible transferee.

(5) "Eligible transferee" means a parent or child of an eligible transferor.

(6) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(7) "Transfer" includes, and is not limited to, any transfer of the

present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(d) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

(2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferee. The written certification shall also include either or both of the following:

(A) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(B) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor which is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, and the names of the eligible transferees of that property.

(C) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee of the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (e) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

The State Board of Equalization shall design the form for claiming eligibility. Any claim under this section shall be filed within three years after the date of the purchase or transfer of real property for which the claim is filed.

The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to this subdivision. Each report shall

contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the tax identification number of each eligible transferor, and any other information as the board shall require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(e) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(f) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, which occurred prior to that date.

SEC. 3. Except for the addition of paragragh (7) to subdivision (c), the amendments to Section 63.1 of the Revenue and Taxation Code made by Section 2 of this act shall apply to purchases and transfers of real property which occur on or after November 6, 1986.

SEC. 4. Sections 2 and 3 of the bill incorporate amendments to Section 63.1 of the Revenue and Taxation Code proposed by both this bill and AB 3020. Sections 2 and 3 of this bill shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 63.1 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 3020, in which case Section 1 of this bill shall not become operative.

CHAPTER 701

An act to amend Section 232 of the Civil Code, and to amend Sections 305, 306, and 363 of the Welfare and Institutions Code, relating to minors, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988]

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

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

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

(1) The child has been left without provision for the child's identification by his or her parent or parents or by others or has been left by both of his or her parents or his or her sole parent in the care and custody of another for a period of six months or by one parent in the care and custody of the other parent for a period of one year without any provision for the child's support, or without

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

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

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

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

(5) Whose parent or parents have been declared by a court of competent jurisdiction, wherever situated, to be developmentally disabled or mentally ill, if, in the state or country in which the parent or parents reside or are hospitalized, the Director of Mental Health or the Director of Developmental Services, or their equivalent, if any, and the superintendent of the hospital of which, if any, the parent or parents are inmates or patients, certify that the parent or parents so declared to be developmentally disabled or mentally ill will not be capable of supporting or controlling the child in a proper manner.

(6) Whose parent or parents are mentally disabled and are likely

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

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

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

The court shall make a determination that reasonable services have been provided or offered to the parents which were designed to aid the parents to overcome the problems which led to the deprivation or continued loss of custody and that despite the

availability of these services, return of the child to the parents would be detrimental to the child. The probation officer or social worker currently assigned to the case of the child shall appear at the termination proceedings.

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

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

(8) A minor who has been found to be a dependent child of the juvenile court and the juvenile court has determined, pursuant to paragraph (3), (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and Institutions Code, that reunification services shall not be provided to the minor's parent or guardian.

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

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

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

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

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

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

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

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

(d) Sections 4600 and 5158 shall not apply to proceedings pursuant to this section.

(e) This section does not apply to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 of the Welfare and Institutions Code on and after January 1, 1989, during the period in which the minor is a dependent child of the court. For those minors, Section 366.26 of the Welfare and Institutions Code and Sections 224, 224m, and 7017 of this code provide the exclusive means for the termination of parental rights.

SEC. 2. Section 305 of the Welfare and Institutions Code is

amended to read:

305. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or lack of supervision poses an immediate threat to the child's health or safety.

(b) Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

(c) Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

(d) Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

SEC. 3. Section 306 of the Welfare and Institutions Code is amended to read:

306. Any social worker in a county welfare department, while acting within the scope of his or her regular duties under the direction of the juvenile court and pursuant to Section 272, may do all of the following:

(a) Receive and maintain, pending investigation, temporary custody of a minor who is described in Section 300, and who has been delivered by a peace officer.

(b) Take into and maintain temporary custody of, without a warrant, a minor who has been declared a dependent child of the juvenile court under Section 300 or who the social worker has reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and the social worker has reasonable cause to believe that the minor has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.

Before taking a minor into custody a social worker shall consider whether there are any reasonable services available to the worker which, if provided to the minor's parent, guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker. In addition, the social worker shall also consider whether a referral to public assistance pursuant to Chapter 2 (commencing with Section 11200) of Part 3, Chapter 7 (commencing with Section 14000) of Part 3, Chapter 1 (commencing with Section 17000) of Part 5, and Chapter 10 (commencing with Section 18900) of Part 6, of Division 9 would eliminate the need to take temporary custody of the minor. If those services are available they shall be utilized.

SEC. 4. Section 363 of the Welfare and Institutions Code is amended to read:

363. If the parent or person legally responsible for the care of any minor who is found to be a person described in Section 300 receives public assistance or care, any portion of which is attributable to the minor, a copy of the order of the court providing for the removal of the minor from his or her home shall be furnished to the appropriate social services official, who shall reduce the public assistance and care furnished the parent or other person by the amount attributable to the minor.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure the protection of children who are at risk of sustaining abuse or neglect, and their families, it is necessary for this act to go into effect immediately.

CHAPTER 702

An act to amend Sections 22451, 22451.1, 22458.2, 22470, 22515, 24451, 24451.1, 24458.2, 24466, 24470, and 24515 of, and to repeal Section 26466 of, the Financial Code, relating to loans.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 22451 of the Financial Code is amended to read:

22451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(b) Two percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars ($225) up to, including, but not in excess of nine hundred dollars ($900).

(c) One and one-half percent per month on that part of the unpaid principal balance in excess of nine hundred dollars ($900) up to, including, but not in excess of one thousand six hundred fifty dollars ($1,650).

(d) One percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars ($1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more or to

any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 2. Section 22451.1 of the Financial Code is amended to read:

22451.1. As an alternative to the charges authorized by Section 22451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 3. Section 22458.2 of the Financial Code is amended to read:

22458.2. (a) Credit disability insurance written pursuant to Section 22458.1 shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than 14 days. The insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. The insurance may be offered with retroactive coverage to an earlier date based upon the disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it shall also be offered without retroactive coverage, and the premium rate for each coverage shall be separately stated in writing to the borrower.

(b) If insurance with retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is disabled, provided that the insured is continuously disabled during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is disabled, after first excluding the elimination period set forth in the policy. For the purpose of this subdivision, a month is any period of 30 consecutive days.

(c) Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the

premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable, and no credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

(d) The monthly disability benefit payable with respect to an open end loan shall not exceed the monthly payment computed pursuant to Section 22503 on the outstanding balance at the time the disability is incurred.

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more, or to any commercial loan of a bona fide principal amount of five thousand dollars ($5,000) or more, or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 4. Section 22470 of the Financial Code is amended to read:

22470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 4.5. Section 22470 of the Financial Code is amended to read:

22470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C.

Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more or to any commercial loan made to a person engaged in the business of selling goods for the purpose of financing the purchase of goods for resale as determined in accordance with Section 22054.

SEC. 5. Section 22515 of the Financial Code is amended to read:

22515. Section 22480 does not apply to open end loans.

SEC. 6. Section 24451 of the Financial Code is amended to read:

24451. Every licensee who lends any sum of money may contract for and receive charges at a rate not exceeding the sum of the following:

(a) Two and one-half percent per month on that part of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars ($225).

(b) Two percent per month on that portion of the unpaid principal balance in excess of two hundred twenty-five dollars ($225) up to, including, but not in excess of nine hundred dollars ($900).

(c) One and one-half percent per month on that part of the unpaid principal balance in excess of nine hundred dollars ($900) up to, including, but not in excess of one thousand six hundred fifty dollars ($1,650).

(d) One percent per month on any remainder of such unpaid balance in excess of one thousand six hundred fifty dollars ($1,650).

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more as determined in accordance with Section 24054.

SEC. 7. Section 24451.1 of the Financial Code is amended to read:

24451.1. As an alternative to the charges authorized by Section 24451, a licensee may contract for and receive charges at the greater of the following:

(a) A rate not exceeding 1.6 percent per month on the unpaid principal balance.

(b) A rate not exceeding five-sixths of 1 percent per month plus a percentage per month equal to one-twelfth of the annual rate prevailing on the 25th day of the second month of the quarter preceding the quarter in which the loan is made as established by the Federal Reserve Bank of San Francisco on advances to member banks under Sections 13 and 13a of the Federal Reserve Act as now in effect or hereafter from time to time amended, or if there is no such single determinable rate for advances, the closest counterpart of this rate as shall be determined by the Superintendent of Banks of the State of California. Charges shall be calculated on the unpaid principal balance.

This section does not apply to any loan of a bona fide principal amount of two thousand five hundred dollars ($2,500) or more as determined in accordance with Section 24054.

SEC. 8. Section 24458.2 of the Financial Code is amended to read:

24458.2. (a) Credit disability insurance written pursuant to Section 24458.1 shall not provide indemnity against the risk of a

borrower becoming disabled for a period of less than 14 days. The insurance may provide indemnity for any single period of continuous disability of 14 days or longer, after which the risk may become compensable. The insurance may be offered with retroactive coverage to an earlier date based upon the disability having continued for a period stated in the policy, but if insurance with retroactive coverage is offered, it shall also be offered without retroactive coverage, and the premium rate for each coverage shall be separately stated in writing to the borrower.

(b) If insurance with retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is disabled, provided that the insured is continuously disabled during the waiting period set forth in the policy. If insurance without retroactive coverage is provided, the coverage shall provide for a prorated payment based upon the fraction of the month during which the insured is disabled, after first excluding the elimination period set forth in the policy. For the purpose of this subdivision, a month is any period of 30 consecutive days.

(c) Credit disability insurance, if made available by a licensee, shall be available on a monthly or annual premium basis, and the premium by the month shall not exceed a pro rata relationship to the annual premium. Credit disability insurance need not be offered for a period less than the term of the loan to which it is applicable and no credit disability insurance shall be written for a period in excess of the term of the loan to which it is applicable.

(d) The monthly disability benefit payable with respect to an open-end loan shall not exceed the monthly payment computed pursuant to Section 24503 on the outstanding balance at the time the disability is incurred.

This section does not apply to any loan of a bona fide principal amount of ten thousand dollars ($10,000) or more as determined in accordance with Section 24054.

SEC. 9. Section 24466 of the Financial Code is amended to read:

24466. No licensee shall take a deed of trust, mortgage or lien upon real property as security for any loan of a principal amount of less than five thousand dollars ($5,000) made under this division, except such lien as is created by law upon the recording of an abstract of judgment.

SEC. 10. Section 24470 of the Financial Code is amended to read:

24470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24054.

SEC. 10.5. Section 24470 of the Financial Code is amended to read:

24470. No licensee shall enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set forth below opposite the respective size of loans.

Principal amount of loan	Maximum term
Less than $500	24 months and 15 days
$500 but less than $1,500	36 months and 15 days
$1,500 but less than $3,000 ..	48 months and 15 days
$3,000 but less than $5,000 ..	60 months and 15 days

This section does not apply to open end loans, or to a student loan made by an eligible lender under the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1070 et seq.), or to a student loan made pursuant to the Public Health Service Act, as amended (42 U.S.C. Sec. 294 et seq.). This section does not apply to any loan of a bona fide principal amount of five thousand dollars ($5,000) or more as determined in accordance with Section 24054.

SEC. 11. Section 24515 of the Financial Code is amended to read:

24515. Section 24480 does not apply to open end loans.

SEC. 12. Section 26466 of the Financial Code is repealed.

SEC. 13. Section 4.5 of this bill incorporates amendments to Section 22470 of the Financial Code proposed by both this bill and AB 3028. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 22470 of the Financial Code, and (3) this bill is enacted after AB 3028, in which case Section 4 of this bill shall not become operative.

SEC. 14. Section 10.5 of this bill incorporates amendments to Section 24470 of the Financial Code proposed by both this bill and AB 3028. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 24470 of the Financial Code, and (3) this bill is enacted after AB 3028, in which case Section 10 of this bill shall not become operative.

CHAPTER 703

An act to add Section 38738 to the Food and Agricultural Code, relating to yogurt, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 38738 is added to the Food and Agricultural Code, to read:

38738. (a) Yogurt, low fat yogurt, and nonfat yogurt may be heat treated after culturing if the product is labeled pursuant to subdivision (b).

(b) Yogurt which has been heat treated after culturing shall conform to all labeling requirements specified for yogurt and bulky flavored yogurt except that the phrases "Heat treated after culturing" and "Contains no live cultures" shall accompany, without any intervening material, the product name wherever it appears on the principal display panel or panels of the container label in letters not less than one-half of the height of the letters used in the name. When an opaque sleeve, which is a label, is used to combine multiple containers of the product into a single unit for consumer purchase, the phrases "Heat treated after culturing" and "Contains no live cultures" shall be placed on the front riser of the sleeve, without any intervening material, accompanying the product name wherever the name appears on the front riser, in letters not less than one-half of the height of the letters used in the name of the product, and prominently and conspicuously on each individual container within the multiple unit.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

The standards of labeling for yogurt must be amended to provide conformity with the standards nationally. In order to provide this conformity in a timely manner, it is necessary that this act take effect immediately.

CHAPTER 704

An act to amend Sections 84200.5 and 84211 of, and to add Section 82047.6 to, the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 82047.6 is added to the Government Code, to read:

82047.6. "Proponent of a state ballot measure" means "proponent" as defined in Section 3502 of the Elections Code.

SEC. 2. Section 84200.5 of the Government Code is amended to read:

84200.5. In addition to the campaign statements required by Section 84200, elected officers, candidates, and committees must file preelection statements as follows:

(a) During an even-numbered year, all elected state officers, all state candidates being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose an elected state officer or a state candidate being voted upon on the first Tuesday after the first Monday in June or November shall file the preelection statements specified in Section 84200.7. However, a candidate who is not being voted upon in the November election, his or her controlled committee, and any committee primarily formed to support or oppose that candidate is not required to file statements in connection with the November election pursuant to subdivision (b) of Section 84200.7.

(b) During an even-numbered year, all candidates not specified in subdivision (a) who are being voted upon on the first Tuesday after the first Monday in June or November, their controlled committees, and committees primarily formed to support or oppose those candidates or a measure being voted upon on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in subdivision (a) of Section 84200.7 in the case of a June election, or subdivision (b) of Section 84200.7 in the case of a November election.

(c) All candidates being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year, their controlled committees, and committees primarily formed to support or oppose a candidate or a measure being voted upon on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8.

(d) During an even-numbered year, state and county general

purpose committees formed pursuant to subdivision (a) of Section 82013 shall file the statements specified in Section 84200.7 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement. State and county general purpose committees formed pursuant to subdivision (b) or (c) of Section 82013 are not required to file the statements specified in Section 84200.7.

(e) City general purpose committees shall file statements as follows:

(1) City general purpose committees in a city which has an election on the first Tuesday after the first Monday in June or November of an even-numbered year shall file the statements specified in subdivision (a) or (b) of Section 84200.7 for the six-month period in which the city election is held, if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(2) City general purpose committees in a city which has an election on a date other than the first Tuesday after the first Monday in June or November of an even-numbered year shall file the preelection statements specified in Section 84200.8 if they make contributions or independent expenditures totaling five hundred dollars ($500) or more during the period covered by the preelection statement.

(f) Committees formed or existing primarily to support or oppose the qualification of a ballot measure and proponents of a state ballot measure who control a committee formed or existing primarily to support the qualification of a measure shall file statements as follows:

(1) In the case of a measure which has failed to qualify, a statement shall be filed no later than 35 days after the deadline for filing petitions, or the date of notification that the measure has failed to qualify, whichever is earlier. The closing date for the period covered by this statement shall be 28 days after the deadline for filing petitions, or 28 days after the date of notification that the measure has failed to qualify, whichever is earlier.

(2) In the case of a measure which has qualified for the ballot, the statement shall be filed no later than 15 days prior to the deadline for submission of the ballot argument in favor of the measure, or 35 days after the date of notification that the measure has qualified, whichever is earlier. The closing date for the period covered by this statement shall be seven days prior to the deadline for filing the statement.

SEC. 3. Section 84211 of the Government Code is amended to read:

84211. Each campaign statement required by this article shall contain the following information:

(a) The total amount of contributions received during the period covered by the campaign statement and the total cumulative

amount of contributions received.

(b) The total amount of expenditures made during the period covered by the campaign statement and the total cumulative amount of expenditures made.

(c) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of one hundred dollars ($100) or more.

(d) The total amount of contributions received during the period covered by the campaign statement from persons who have given a cumulative amount of less than one hundred dollars ($100).

(e) The balance of cash and cash equivalents on hand at the beginning and the end of the period covered by the campaign statement.

(f) If the cumulative amount of contributions (including loans) received from a person is one hundred dollars ($100) or more and a contribution or loan has been received from that person during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business;

(5) The date and amount received for each contribution received during the period covered by the campaign statement and if the contribution is a loan, the interest rate for the loan; and

(6) The cumulative amount of contributions.

(g) For each person, other than the filer, who is directly, indirectly or contingently liable for repayment of a loan received during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) His or her occupation;

(4) The name of his or her employer or if self-employed, name of business; and

(5) The amount of his or her maximum liability.

(h) The total amount of expenditures made during the period covered by the campaign statement to persons who have received one hundred dollars ($100) or more.

(i) The total amount of expenditures made during the period covered by the campaign statement to persons who have received less than one hundred dollars ($100).

(j) For each person to whom an expenditure of one hundred dollars ($100) or more has been made during the period covered by the campaign statement:

(1) His or her full name;

(2) His or her street address;

(3) The amount of each expenditure;

(4) A brief description of the consideration for which each expenditure was made;

(5) In the case of an expenditure which is a contribution, the date of the contribution, the cumulative amount of contributions made to a candidate, elected officer or committee, the full name of the candidate and the office and district for which he or she seeks nomination or election. In the case of a contribution in support of or opposition to a measure, the number or letter of the measure and the jurisdiction in which the measure or candidate is voted upon; and

(6) The information required in paragraphs (1) through (4) above, for each person, if different from the payee, who has provided consideration for an expenditure of one hundred dollars ($100) or more during the period covered by the campaign statement.

For purposes of subdivisions (h), (i), and (j) only, the terms "expenditure" or "expenditures" means any individual payment or accrued expense, unless it is clear from surrounding circumstances that a series of payments or accrued expenses are for a single service or product.

(k) In the case of a controlled committee, an official committee of a political party, or an organization formed or existing primarily for political purposes, the amount and source of any miscellaneous receipt.

(*l*) If a committee is listed pursuant to subdivision (f), (g), (j), (k), or (p), the number assigned to the committee by the Secretary of State shall be listed or if no number has been assigned, the full name and street address of the treasurer of the committee.

(m) In a campaign statement filed by a committee supporting or opposing more than one candidate or measure, the amount of expenditures of one hundred dollars ($100) or more for or against each candidate or measure during the period covered by the campaign statement and the cumulative amount of expenditures of one hundred dollars ($100) or more for or against each such candidate or measure.

(n) In a campaign statement filed by a candidate who is a candidate in both an election held on the first Tuesday after the first Monday in June and an election held on the first Tuesday after the first Monday in November, his or her controlled committee, or a committee primarily formed to support or oppose such a candidate, the total amount of contributions received and the total amount of expenditures made for the period January 1 through June 30 and the total amount of contributions received and expenditures made for the period July 1 through December 31.

(o) The full name, residential or business address, and telephone number of the filer, or in the case of a campaign statement filed by a committee defined by subdivision (a) of Section 82013, the name, street address, and telephone number of the committee and of the committee treasurer. In the case of a committee defined by subdivision (b) or (c) of Section 82013, the name that the filer uses on campaign statements shall be the name by which the filer is identified for other legal purposes or any name which the filer is commonly known to the public.

(p) If the campaign statement is filed by a candidate, the name, street address, and treasurer of any committee of which he or she has knowledge which has received contributions or made expenditures on behalf of his or her candidacy and whether such committee is controlled by the candidate.

(q) A contribution need not be reported nor shall it be deemed accepted if it is not cashed, negotiated or deposited and is returned to the contributor before the closing date of the campaign statement on which the contribution would otherwise be reported.

(r) If the campaign statement is filed in connection with the qualification of a measure, it shall contain the information required by paragraphs (1) through (4) of subdivision (j) for each person who has directly, indirectly or through an intermediary received payments cumulatively totaling one hundred dollars ($100) or more for circulation of petitions to qualify a measure for the ballot.

(s) The information required by Sections 84216 and 84216.5.

SEC. 4. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 705

An act to add Section 706.5 to the Streets and Highways Code, relating to highways.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 706.5 is added to the Streets and Highways Code, to read:

706.5. In connection with the construction of State Highway Route 86 in Imperial County from Post Miles 58.4 to Post Miles 65.1 and the relocation of facilities of the Coachella Valley Water District necessitated by that project, the department may make a loan, for a term not exceeding 20 years, to the district for the relocation costs incurred, and to be incurred, by the district as a result of that project. The loan shall be subject to the terms and conditions that are mutually agreed upon, but shall require the district, in addition to making periodic payments on the loan, to annually pay to the department an amount at least equal to the sum of the pipeline portion of all development fees collected by the district during the preceding year in the service area served by the transverse waterline crossing of State Highway Route 86, less the district's administrative and collection costs. The amounts so paid shall be deducted from the outstanding balance of the loan, and the remaining term of the loan

correspondingly reduced.

SEC. 2. The Legislature finds and declares that due to unique circumstances caused by state highway construction which has necessitated relocating facilities of the Coachella Valley Water District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 706

An act to amend Section 5471 of the Health and Safety Code, relating to water systems.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 5471 of the Health and Safety Code is amended to read:

5471. In addition to the powers granted in the principal act, any entity shall have power, by an ordinance approved by a two-thirds vote of the members of the legislative body thereof, to prescribe, revise and collect, fees, tolls, rates, rentals, or other charges, including water, sewer standby or immediate availability charges, for services and facilities furnished by it, either within or without its territorial limits, in connection with its water, sanitation, or sewerage system. However, the entity may provide that the charge for the service shall be collected with the rates, tolls, and charges for any other utility, and that any or all of these charges may be billed upon the same bill. Where the charge is to be collected with the charges for any other utility service furnished by a department or agency of the entity and over which its legislative body does not exercise control, the consent of the department or agency shall be obtained prior to collecting water, sanitation or sewerage charges with the charges for any other utility. Revenues derived under the provisions in this section, shall be used only for the acquisition, construction, reconstruction, maintenance, and operation of water systems and sanitation or sewerage facilities, to repay principal and interest on bonds issued for the construction or reconstruction of these water systems and sanitary or sewerage facilities and to repay federal or state loans or advances made to the entity for the construction or reconstruction of water systems and sanitary or sewerage facilities. However, the revenue shall not be used for the acquisition or construction of new local street sewers or laterals as distinguished from main trunk, interceptor and outfall sewers.

CHAPTER 707

An act to amend Section 21605 of the Public Utilities Code, relating to airports.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988]

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

SECTION 1. (a) This act shall be known and may be cited as the "Airport Protection and Development Policy Act of 1988."

(b) The Legislature finds and declares that airport capacity is critical to the healthy flow of commerce in California.

(c) It is the intent of the Legislature in enacting this act to preserve and enhance the capacity of California's airports in order to foster the growth of jobs, income, and standards of living for all Californians.

SEC. 2. Section 21605 of the Public Utilities Code is amended to read:

21605. No proprietor of any permitted airport which is open to the public and has received public funds shall close or suspend operation of the airport, or close an existing runway or taxiway except on a temporary basis for inspection, maintenance, construction, or emergency purposes, without notifying the department in writing 60 days prior to the intended closure or suspension of operations. On its own motion or upon the request of an affected or interested person, the department may conduct a public hearing to determine the impact of the intended closure or suspension of operations, both economically and on the entire state air transportation system. The department may take appropriate action to assist the proprietor in keeping the airport operational and open for public use.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 708

An act to amend Sections 84200 and 87500 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 84200 of the Government Code is amended to read:

84200. (a) Except as provided in paragraphs (1), (2), (3), and (4), elected officers, candidates, and committees pursuant to subdivision (a) of Section 82013 shall file semiannual statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31.

(1) A candidate who, during the past six months has filed a declaration pursuant to Section 84206 shall not be required to file a semiannual statement for that six-month period.

(2) Elected officers whose salaries are less than one hundred dollars ($100) a month, judges, judicial candidates, and their controlled committees shall not file semiannual statements pursuant to this subdivision for any six-month period in which they have not made or received any contributions or made any expenditures.

(3) A judge who is not listed on the ballot for reelection to, or recall from, any elective office during a calendar year shall not file semiannual statements pursuant to this subdivision for any six-month period in that year if both of the following apply:

(A) The judge has not received any contributions.

(B) The only expenditures made by the judge during the calendar year are contributions from the judge's personal funds to other candidates or committees totaling less than one thousand dollars ($1,000).

(4) A committee formed primarily to support or oppose the qualification of a measure shall not be required to file a semiannual statement until after the filing date for the campaign statement required by subdivision (f) of Section 84200.5.

(b) All committees pursuant to subdivision (b) or (c) of Section 82013 shall file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures during the six-month period before the closing date of the statements.

SEC. 2. Section 87500 of the Government Code is amended to read:

87500. Statements of economic interests required by this chapter shall be filed as follows:

(a) Statewide elected officer—one original with the agency which

shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(b) Candidates for statewide elective office—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the Registrar-Recorder of Los Angeles County and one copy with the Clerk of the City and County of San Francisco. The commission shall be the filing officer.

(c) Members of the Legislature and Board of Equalization—one original with the agency which shall make and retain a copy and forward the original to the commission, which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district which the officeholder represents, and one copy to the clerk of the county in which the officeholder resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(d) Candidates for the Legislature or the Board of Equalization—one original with the person with whom the candidate's declaration of candidacy is filed, who shall forward the original to the commission which shall retain the original and send one copy to the clerk of the county which contains the largest percentage of registered voters in the election district in which the candidate seeks nomination or election, and one copy to the clerk of the county in which the candidate resides. No more than one copy of each statement need be filed with the clerk of any one county. The commission shall be the filing officer.

(e) Persons holding the office of chief administrative officer and candidates for and persons holding the office of district attorney, county counsel, and member of the board of supervisors—one original with the county clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(f) Persons holding the office of city manager or, if there is no city manager, the chief administrative officer, and candidates for and persons holding the office of city council member, city attorney, and mayor—one original with the city clerk who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(g) Members of the Public Utilities Commission, members of the State Energy Resources Conservation and Development Commission, planning commissioners, and members of the California Coastal Commission—one original with the agency which shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(h) Members of the Fair Political Practices Commission—one

original with the commission which shall make and retain a copy and forward the original to the office of the Attorney General which shall be the filing officer.

(i) Judges, court commissioners, and candidates for the office of judge —one original with the clerk of the court who shall make and retain a copy and forward the original to the commission which shall be the filing officer.

(j) Except as provided for in subdivision (k), heads of agencies, members of boards or commissions not under a department of state government or members of boards or commissions not under the jurisdiction of a local legislative body—one original with the agency, which shall make and retain a copy and forward the original to the code reviewing body which shall be the filing officer. In its discretion, the code reviewing body may provide that the original be filed directly with the code reviewing body and that no copy be retained by the agency.

(k) Heads of local government agencies and members of local government boards or commissions, for which the Fair Political Practices Commission is the code reviewing body, one original to the agency or board or commission which shall be the filing officer, unless at its discretion the Fair Political Practices Commission elects to act as the filing officer. In this instance, the original shall be filed with the agency or board or commission, which shall make and retain a copy and forward the original to the Fair Political Practices Commission.

(*l*) Designated employees of the Legislature—one original with the house of the Legislature by which the designated employee is employed. In its discretion, each house of the Legislature may provide that the originals of statements filed by its designated employees be filed directly with the commission, and that no copies be retained by that house.

(m) Persons not mentioned above—one original with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 709

An act to amend Section 6361 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. Any nonprofit organization, youth group sponsored by a school district, or other organization the primary purpose of which is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth, which does not discriminate on the basis of race, sex, nationality, or religion, and which qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code, is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis, provided that the profits are used solely and exclusively in furtherance of those purposes.

"Irregular or intermittent," as used in this section, means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. Included are refreshment stands or booths that are utilized at scheduled events of organized leagues, but not included are storefront or mobile retail outlets which ordinarily require local business licenses, or activities by any group that does not qualify for tax-exempt status under Section 501(c) of the Internal Revenue Code.

The organizations described in this section include only Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, and Special Olympics, Inc.

"Nonprofit organization," as used in this section, does not include the state or any of its political subdivisions.

SEC. 2. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. Any nonprofit organization, youth group sponsored by a school district, or other organization the primary purpose of which is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth, which does not discriminate on the basis of race, sex, nationality, or religion, and which qualifies

for tax-exempt status under Section 501(c) of the Internal Revenue Code, is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis, provided that the profits are used solely and exclusively in furtherance of those purposes.

"Irregular or intermittent," as used in this section, means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. Included are refreshment stands or booths that are utilized at scheduled events of organized leagues, but not included are storefront or mobile retail outlets which ordinarily require local business licenses, or activities by any group that does not qualify for tax-exempt status under Section 501(c) of the Internal Revenue Code.

The organizations described in this section include only Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner Football.

"Nonprofit organization," as used in this section, does not include the state or any of its political subdivisions.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6361 of the Revenue and Taxation Code proposed by both this bill and AB 2693. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 6361 of the Revenue and Taxation Code, and (3) this bill is enacted after AB 2693, in which case Section 6361 of the Revenue and Taxation Code, as amended by AB 2693, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to the section nor shall there be any appropriation made by this act because revenue losses to local agencies due to this act, if any, are minor in nature and will not cause any financial burden to local government.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 710

An act to amend Section 6361 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988]

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

SECTION 1. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. Any nonprofit organization, youth group sponsored by a school district, or other organization the primary purpose of which is to provide a supervised program of competitive sports for youth, or to promote good citizenship in youth, which does not discriminate on the basis of race, sex, nationality, or religion, and which qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code, is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis, provided that the profits are used solely and exclusively in furtherance of those purposes.

"Irregular or intermittent," as used in this section, means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. Included are refreshment stands or booths that are utilized at scheduled events of organized leagues, but not included are storefront or mobile retail outlets which ordinarily require local business licenses, or activities by any group that does not qualify for tax-exempt status under Section 501(c) of the Internal Revenue Code.

The organizations described in this section include only Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner Football.

"Nonprofit organization," as used in this section, does not include the state or any of its political subdivisions.

SEC. 2. Section 6361 of the Revenue and Taxation Code is amended to read:

6361. Any nonprofit organization, youth group sponsored by a school district, or other organization the primary purpose of which is to provide a supervised program of competitive sports for youth,

or to promote good citizenship in youth, which does not discriminate on the basis of race, sex, nationality, or religion, and which qualifies for tax-exempt status under Section 501(c) of the Internal Revenue Code, is a consumer of, and shall not be considered a retailer within the provisions of this part with respect to, food products, nonalcoholic beverages, or other tangible personal property made or produced by members of the organization which it sells on an irregular or intermittent basis, provided that the profits are used solely and exclusively in furtherance of those purposes.

"Irregular or intermittent," as used in this section, means associated directly with a particular event, such as fairs, galas, parades, scout-a-ramas, games, and similar activities. Included are refreshment stands or booths that are utilized at scheduled events of organized leagues, but not included are storefront or mobile retail outlets which ordinarily require local business licenses, or activities by any group that does not qualify for tax-exempt status under Section 501(c) of the Internal Revenue Code.

The organizations described in this section include only Little League, Bobby Sox, Boy Scouts, Cub Scouts, Girl Scouts, Campfire, Inc., Young Men's Christian Association, Young Women's Christian Association, Future Farmers of America, Future Homemakers of America, 4-H Clubs, Distributive Education Clubs of America, Future Business Leaders of America, Vocational Industrial Clubs of America, Collegiate Young Farmers, Boys' Clubs, Girls' Clubs, Special Olympics, Inc., American Youth Soccer Organization, California Youth Soccer Association, North, California Youth Soccer Association, South, and Pop Warner Football.

"Nonprofit organization," as used in this section, does not include the state or any of its political subdivisions.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6361 of the Revenue and Taxation Code proposed by both this bill and SB 960. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 6361 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 960, in which case Section 6361 of the Revenue and Taxation Code, as amended by SB 960, shall remain operative only until the operative date of this bill, at which time Section 2 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because revenue losses to local agencies due to this act are minor in nature and will not cause any financial burden to local government.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 711

An act to add and repeal Section 6361.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 6361.1 is added to the Revenue and Taxation Code, to read:

6361.1. (a) Any youth organization described in subdivision (a) of Section 6361 which is not specifically listed in subdivision (c) of that section shall assume the status of a consumer under that section if the organization meets the requirements of subdivision (b).

(b) In order to assume the status of a consumer pursuant to Section 6361, a youth organization shall file a written request, on a form provided by the State Board of Equalization, for approval by the State Board of Equalization. If approved, the organization, and all affiliated branches of the organization which meet the conditions of subdivision (a) of Section 6361 shall be deemed consumers under Section 6361.

(c) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. The State Board of Equalization shall report to the Legislature on or before January 1, 1991, on the amount of tax revenues lost as a result of the exemption provided by Section 6361.1 of the Revenue and Taxation Code, as added by Section 1 of this act, and the identities of those organizations receiving exemptions pursuant to that section.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because revenue losses to local agencies due to this act are minor in nature and will not cause any financial burden to local government.

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

CHAPTER 712

An act to amend Sections 11055, 11100, and 11383 of, and to add Chapter 6.5 (commencing with Section 11400) to, Division 10 of, the Health and Safety Code, relating to controlled substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 11055 of the Health and Safety Code is amended to read:

11055. (a) The controlled substances listed in this section are included in Schedule II.

(b) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, with the exception of naloxone hydrochloride (N-allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the following:

(A) Raw opium.
(B) Opium extracts.
(C) Opium fluid extracts.
(D) Powdered opium.
(E) Granulated opium.
(F) Tincture of opium.
(G) Apomorphine.
(H) Codeine.
(I) Ethylmorphine.
(J) Hydrocodone.
(K) Hydromorphone.
(L) Metopon.
(M) Morphine.
(N) Oxycodone.
(O) Oxymorphone.
(P) Thebaine.

(2) Any salt, compound, isomer, or derivative, whether natural or synthetic, of the substances referred to in paragraph (1), but not including the isoquinoline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw

in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy).

(6) Cocaine, except as specified in Section 11054.

(7) Ecgonine, whether natural or synthetic, or any salt, isomer, derivative, or preparation thereof.

(c) Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

(1) Alfentanyl.

(2) Alphaprodine.

(3) Anileridine.

(4) Bezitramide.

(5) Bulk dextropropoxyphene (nondosage forms).

(6) Dihydrocodeine.

(7) Diphenoxylate.

(8) Fentanyl.

(9) Isomethadone.

(10) Levomethorphan.

(11) Levorphanol.

(12) Metazocine.

(13) Methadone.

(14) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.

(15) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.

(16) Pethidine (meperidine).

(17) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.

(18) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.

(19) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

(20) Phenazocine.

(21) Piminodine.

(22) Racemethorphan.

(23) Racemorphan.

(24) Sufentanyl.

(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(2) Methamphetamine, its salts, isomers, and salts of its isomers.

(3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.

(4) N-Ethylmethamphetamine (N-ethyl, N-methylamphetamine), its salts, isomers, and salts of its isomers.

(5) Phenmetrazine and its salts.

(6) Methylphenidate.

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital.

(2) Pentobarbital.

(3) Phencyclidines, including the following:

(A) 1-(1-phenylcyclohexyl) piperidine (PCP).

(B) 1-(1-phenylcyclohexyl) morpholine (PCM).

(C) Any analog of phencyclidine which is added by the Attorney General by regulation pursuant to this paragraph.

The Attorney General, or his or her designee, may, by rule or regulation, add additional analogs of phencyclidine to those enumerated in this paragraph after notice, posting, and hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Attorney General shall, in the calendar year of the regular session of the Legislature in which the rule or regulation is adopted, submit a draft of a proposed bill to each house of the Legislature which would incorporate the analogs into this code. No rule or regulation shall remain in effect beyond January 1 after the calendar year of the regular session in which the draft of the proposed bill is submitted to each house. However, if the draft of the proposed bill is submitted during a recess of the Legislature exceeding 45 calendar days, the rule or regulation shall be effective until January 1 after the next calendar year.

(4) Secobarbital.

(5) Glutethimide.

(f) Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(A) Phenylacetone. Some trade or other names: phenyl-2 propanone; P2P; benzyl methyl ketone; methyl benzyl ketone.

(2) Immediate precursors to phencyclidine (PCP):

(A) 1-phenylcyclohexylamine.

(B) 1-piperidinocyclohexane carbonitrile (PCC).

(g) Hallucinogenic substances. Any of the following hallucinogenic substances: dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the federal Food and Drug Administration.

SEC. 2. Section 11100 of the Health and Safety Code, as amended by Chapter 73 of the Statutes of 1988, is amended to read:

11100. (a) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes any of the following substances to any person in this state shall submit a report to the Department of Justice of all of those transactions:

(1) Phenyl-2-propanone.
(2) Methylamine.
(3) Ethylamine.
(4) D-lysergic acid.
(5) Ergotamine tartrate.
(6) Diethyl malonate.
(7) Malonic acid.
(8) Ethyl malonate.
(9) Barbituric acid.
(10) Piperidine.
(11) N-acetylanthranilic acid.
(12) Pyrrolidine.
(13) Phenylacetic acid.
(14) Anthranilic acid.
(15) Morpholine.
(16) Ephedrine.
(17) Pseudoephedrine.
(18) Norpseudoephedrine.
(19) Phenylpropanolamine.
(20) Propionic anhydride.
(21) Isosafrole.
(22) Safrole.
(23) Piperonal.
(24) Thionylchloride.
(25) Benzyl cyanide.
(26) Ergonovine maleate.
(27) N-methylephedrine.
(28) N-ethylephedrine.
(29) N-methypseudoephedrine.
(30) N-ethylpseudoephedrine.
(31) Chloroephedrine.
(32) Chloropseudophedrine.
(33) Any of the substances listed by the Department of Justice in regulations promulgated pursuant to subdivision (b).

(b) The Department of Justice may adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that add substances to subdivision (a) if the substance is a precursor to a controlled substance and delete substances from subdivision (a). However, no regulation adding or deleting a substance shall have any effect beyond March 1 of the year following the calendar year during which the regulation was adopted.

(c) (1) Any manufacturer, wholesaler, retailer, or other person

shall, prior to selling, transferring, or otherwise furnishing any substance specified in subdivision (a) to a person in this state, require proper identification from the purchaser.

(2) For the purposes of this subdivision, "proper identification" means a motor vehicle operator's license or other official state-issued identification of the purchaser which contains a photograph of the purchaser, and includes the residential or mailing address of the purchaser, other than a post office box number, the motor vehicle license number of any motor vehicle owned or operated by the purchaser, a letter of authorization from the business for which any substance specified in subdivision (a) is being furnished, which includes the business license number and address of the business, a full description of how the substance is to be used, and the signature of the purchaser. The person selling, transferring, or otherwise furnishing any substance specified in subdivision (a) shall affix his or her signature as a witness to the signature and identification of the purchaser.

(3) A violation of this subdivision is a misdemeanor.

(d) Any manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes a substance specified in subdivision (a) to a person in this state shall, not less than 21 days prior to delivery of the substance, submit a report of the transaction, which includes the identification information specified in subdivision (c), to the Department of Justice. However, the Department of Justice may authorize the submission of the reports on a monthly basis with respect to repeated, regular transactions between the furnisher and the recipient involving the same substance if the Department of Justice determines that either of the following exist:

(1) A pattern of regular supply of the substance exists between the manufacturer, wholesaler, retailer, or other person who sells, transfers, or otherwise furnishes such substance and the recipient of the substance.

(2) The recipient has established a record of utilization of the substance for lawful purposes.

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

(1) Any pharmacist or other authorized person who sells or furnishes a substance upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who administers or furnishes a substance to his or her patients.

(3) Any manufacturer or wholesaler licensed by the California State Board of Pharmacy who sells, transfers, or otherwise furnishes a substance to a licensed pharmacy, physician, dentist, podiatrist, or veterinarian.

(4) Any sale, transfer, furnishing, or receipt of any drug which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine and which is lawfully sold, transferred, or furnished over the counter without a prescription pursuant to the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 301 et seq.) or

regulations adopted thereunder.

(f) (1) Any person specified in subdivision (d) who does not submit a report as required by that subdivision or who knowingly submits a report with false or fictitious information shall be punished by imprisonment in the county jail not exceeding six months or by a fine not exceeding five thousand dollars ($5,000) or by both the fine and imprisonment.

(2) Any person specified in subdivision (d) who has previously been convicted of a violation of paragraph (1) shall, upon a subsequent conviction thereof, be punished by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one hundred thousand dollars ($100,000), or by both the fine and imprisonment.

This section shall become operative on April 1, 1987.

SEC. 3. Section 11383 of the Health and Safety Code is amended to read:

11383. (a) Any person who possesses both methylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture methamphetamine, or who possesses both ethylamine and phenyl-2-propanone (phenylacetone) at the same time with the intent to manufacture N-ethylamphetamine, is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years.

(b) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture phencyclidine (PCP) or any of its analogs specified in paragraph (22) of subdivision (d) of Section 11054 or paragraph (3) of subdivision (e) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years:

(1) Piperidine and cyclohexanone.

(2) Pyrrolidine and cyclohexanone.

(3) Morpholine and cyclohexanone.

(c) Any person who possesses at the same time any of the following combinations, or a combination product thereof, with intent to manufacture methamphetamine or any of its analogs specified in subdivision (d) of Section 11055 is guilty of a felony and shall be punished by imprisonment in the state prison for three, four, or five years:

(1) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, plus hydriodic acid.

(2) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, or phenylpropanolamine, thionyl chloride and hydrogen gas.

(3) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine,

N-ethylpseudoephedrine, or phenylpropanolamine, plus phosphorus pentachloride and hydrogen gas.

(4) Ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, N-methylpseudoephedrine, N-ethylpseudoephedrine, chloroephedrine and chloropseudoephedrine, or phenylpropanolamine, plus any "reducing" agent.

(d) For purposes of this section, "reducing" means a chemical reaction in which hydrogen combines with another substance or in which oxygen is removed from a substance.

(e) For purposes of this section, possession of the optical, positional, or geometric isomer of any of the compounds listed in this section shall be deemed to be possession of the derivative substance.

(f) For purposes of this section, possession of immediate precursors sufficient for the manufacture of methylamine, ethylamine, phenyl-2-propanone, piperidine, cyclohexanone, pyrrolidine, morpholine, ephedrine, pseudoephedrine, norpseudophedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of such a derivative substance. Additionally, possession of any compound or mixture containing piperidine, cyclohexanone, pyrrolidine, or morpholine ephedrine, pseudoephedrine, norpseudoephedrine, N-methylephedrine, N-ethylephedrine, phenylpropanolamine, hydriodic acid, thionyl chloride, or phosphorus pentachloride shall be deemed to be possession of the substance.

(g) Subdivisions (a), (b), (c), (e), and (f) do not apply to drug manufacturers licensed by this state or person authorized by regulation of the Board of Pharmacy to possess those substances or combinations of substances.

SEC. 4. Chapter 6.5 (commencing with Section 11400) is added to Division 10 of the Health and Safety Code, to read:

CHAPTER 6.5. ANALOGS

11400. The Legislature finds and declares that the laws of this state which prohibit the possession, possession for sale, offer for sale, sale, manufacturing, and transportation of controlled substances are being circumvented by the commission of those acts with respect to analogs of specified controlled substances which have, are represented to have, or are intended to have effects on the central nervous system which are substantially similar to, or greater than, the controlled substances classified in Sections 11054 and 11055 of which they are analogs. These analogs have been synthesized by so-called "street chemists" and imported into this state from other jurisdictions as precursors to, or substitutes for, controlled substances, due to the nonexistence of applicable criminal penalties. These analogs present grave dangers to the health and safety of the people of this state. Therefore, it is the intent of the Legislature that a

controlled substance analog as defined in Section 11401 be considered identical, for purposes of the penalties and punishment specified in Chapter 6 (commencing with Section 11350), to the controlled substance in Section 11054 or 11055 of which it is an analog.

11401. (a) A controlled substance analog shall, for the purposes of Chapter 6 (commencing with Section 11350), be treated the same as the controlled substance classified in Section 11054 or 11055 of which it is an analog.

(b) Except as provided in subdivision (c), the term "controlled substance analog" means either of the following:

(1) A substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance classified in Section 11054 or 11055.

(2) A substance which has, is represented as having, or is intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to, or greater than, the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance classified in Section 11054 or 11055.

(c) The term "controlled substance analog" does not mean any of the following:

(1) Any substance for which there is an approved new drug application as defined under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355) or which is generally recognized as safe and effective for use pursuant to Sections 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Secs. 351, 352, and 353) and 21 C.F.R. Section 330 et seq.

(2) With respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 355), to the extent that the conduct with respect to that substance is pursuant to the exemption.

(3) Any substance, before an exemption as specified in paragraph (2) takes effect with respect to the substance, to the extent the substance is not intended for human consumption.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

There has been a recent surge in unregulated transactions of chemicals used to manufacture a new street drug which is similar to methamphetamine. In order to immediately preserve the public health and safety by regulating these chemicals, it is necessary that

this act go into immediate effect.

CHAPTER 713

An act to amend Section 607 of the Welfare and Institutions Code, relating to arrest warrants.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Section 607 of the Welfare and Institutions Code is amended to read:

607. (a) The court may retain jurisdiction over any person who is found to be a ward or dependent child of the juvenile court until the ward or dependent child attains the age of 21 years, except as provided in subdivisions (b), (c), and (d).

(b) The court may retain jurisdiction over any person who is found to be a person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 until that person attains the age of 25 years if the person was committed to the Department of the Youth Authority.

(c) The court shall not discharge any person from its jurisdiction who has been committed to the Department of the Youth Authority so long as the person remains under the jurisdiction of the Department of the Youth Authority, including periods of extended control ordered pursuant to Section 1800.

(d) The court may retain jurisdiction over any person described in Section 602 by reason of the commission of any of the offenses listed in subdivision (b) of Section 707 who has been confined in a state hospital or other appropriate public or private mental health facility pursuant to Section 702.3 until that person has attained the age of 25 years, unless the court which committed the person finds, after notice and hearing, that the person's sanity has been restored.

(e) The court may retain jurisdiction over any person while that person is the subject of a warrant for arrest issued pursuant to Section 663.

CHAPTER 714

An act to add Chapter 7.9 (commencing with Section 25695) to Division 15 of the Public Resources Code, relating to energy.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 29, 1988.]

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

SECTION 1. Chapter 7.9 (commencing with Section 25695) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 7.9. ENERGY TECHNOLOGY AND ENERGY CONSERVATION

25695. In enacting this chapter, the Legislature hereby finds and declares all of the following:

(a) The development and commercialization of energy technologies and energy conservation is a vital element in meeting the state's energy needs.

(b) The continuing vitality of California's energy technology and energy conservation industry, as well as the maintenance of California's technological leadership in these energy systems, depends on the industry's ability to expand into new markets, including those in other countries. The expansion of California's energy technology and energy conservation industry into foreign markets will result in lower domestic prices, more stable growth, increased employment opportunities, and additional tax revenues.

(c) California's energy technology and energy conservation industry's entry into export markets is being inhibited by foreign-based competitors benefiting from extensive financial and technical support from their governments. Furthermore, small- to medium-sized energy firms are handicapped by high information costs and financial constraints.

(d) California-based energy technology and energy conservation firms seeking to expand into foreign markets can be substantially assisted by state efforts to disseminate international market data, foreign government regulatory information, and other material, and to provide technical assistance to facilitate export efforts.

(e) It is in the best interest of the state to increase the export of goods and services provided by California-based energy technology and energy conservation firms, particularly small- and medium-sized businesses, in a manner which coordinates with and augments existing private, state, and federal programs.

25696. The commission, in cooperation with the California State World Trade Commission and the California Department of Commerce, may assist California-based energy technology and energy conservation firms to export their technologies, products, and

services to international markets.

The commission may, in coordination with the California State World Trade Commission, do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, a trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

25697. The commission shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

25698. The commission shall include in its energy development report prepared pursuant to Section 25604 a description of international energy market prospects and an evaluation of its export promotion activities, as well as an assessment of the state of the California energy technology and energy conservation industry's efforts to enter foreign markets. The energy development report shall also include recommendations for state government initiatives to foster the California energy technology and energy conservation industry's competition in world markets.

CHAPTER 715

An act to amend Section 4024.2 of the Penal Code, relating to punishment.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 30, 1988.]

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

SECTION 1. Section 4024.2 of the Penal Code is amended to read:

4024.2. (a) Notwithstanding any other provision of law, the board of supervisors of any county may authorize the sheriff or other official in charge of county correctional facilities to offer a voluntary program under which any person committed to such facility may perform a minimum of 8 and a maximum of 10 hours of labor on the public works or ways in lieu of one day of confinement under the direction of a responsible person appointed by the sheriff or other official in charge. The hours of labor to be performed pursuant to this section shall be uniform for all persons committed to such facilities in a county and may be determined by the sheriff or other official in charge of county correctional facilities, within the minimum and maximum herein set forth, in accordance with the normal working hours of county employees assigned to supervise the labor of such persons.

As used in this section "labor on the public works and ways" means manual labor to improve or maintain public facilities, including but not limited to, streets, parks, and schools.

(b) The board of supervisors may prescribe reasonable rules and regulations under which such labor is to be performed and may provide that such persons wear clothing of a distinctive character while performing such work. As a condition of participating in a work release program, a person shall give his or her promise to appear for work by signing a notice to appear before the sheriff at a time and place specified in the notice and shall sign an agreement that the sheriff may immediately retake such person into custody to serve the balance of his or her sentence if such person fails to appear for work at the time and place agreed to, does not perform the work assigned, or for any other reason is no longer a fit subject for release under this section. A copy of the notice shall be delivered to the person and a copy shall be retained by the sheriff. Any person who willfully violates his or her written promise to appear at the time and place specified in the notice is guilty of a misdemeanor.

Whenever a peace officer has reasonable cause to believe the person has failed to appear at the time and place specified in the notice or fails to appear or work at the time and place agreed to or has failed to perform the work assigned, the peace officer may, without a warrant, retake the person into custody, or the court may

issue an arrest warrant for the retaking of the person into custody, to complete the remainder of the original sentence. A peace officer may not retake a person into custody under this subdivision, without a warrant for arrest, unless the officer has a written order to do so, signed by the sheriff or other person in charge of the program, which describes with particularity the person to be retaken.

(c) Nothing in this section shall be construed to require the sheriff or other such official to assign labor to a person pursuant to this section if it appears from the record that such person has refused to satisfactorily perform labor as assigned or has not satisfactorily complied with the reasonable rules and regulations governing such assignment or any other order of the court.

A person shall be eligible for work release under this section only if the sheriff or other official in charge concludes that such person is a fit subject therefor.

(d) The board of supervisors may prescribe a program administrative fee, not to exceed the pro rata cost of administration, to be paid by each such person according to his or her ability to pay.

(e) This section shall remain in effect until January 1, 1990, and on that date is repealed.

CHAPTER 716

An act to amend Sections 25100 and 25101 of, and to add Section 25100.1 to, the Corporations Code, relating to securities.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 30, 1988]

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

SECTION 1. Section 25100 of the Corporations Code is amended to read:

25100. The following securities are exempted from the provisions of Sections 25110, 25120, and 25130:

(a) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any city, county, city and county, public district, public authority, public corporation, public entity, or political subdivision of a state or any agency or corporate or other instrumentality of any one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(b) Any security issued or guaranteed by the Dominion of Canada, any Canadian province, any political subdivision or municipality of any such province, or by any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor; or any certificate of deposit for any of the foregoing.

(c) Any security issued or guaranteed by and representing an interest in or a direct obligation of a national bank or a bank or trust company incorporated under the laws of this state, and any security issued by a bank to one or more other banks and representing an interest in an asset of the issuing bank.

(d) Any security issued or guaranteed by a federal savings and loan association or federal savings bank or federal land bank or joint land bank or national farm loan association or by any savings association, as defined in subdivision (a) of Section 5102 of the Financial Code, which is subject to the supervision and regulation of the Savings and Loan Commissioner of this state.

(e) Any security (other than an interest in all or portions of a parcel or parcels of real property which are subdivided land or a subdivision or in a real estate development), the issuance of which is subject to authorization by the Insurance Commissioner, the Public Utilities Commission, or the Real Estate Commissioner of this state.

(f) Any security consisting of any interest in all or portions of a parcel or parcels of real property which are subdivided lands or a subdivision or in a real estate development; provided that the exemption in this subdivision shall not be applicable to any investment contract sold or offered for sale with, or as part of, any such interest, or to any person engaged in the business of selling, distributing or supplying water for irrigation purposes or domestic use which is not a public utility.

(g) Any mutual capital certificates or savings accounts, as defined in the Savings Association Law, issued by a savings association, as defined by subdivision (a) of Section 5102 of the Financial Code, and holding a license or certificate of authority then in force from the Savings and Loan Commissioner of this state.

(h) Any security issued or guaranteed by any federal credit union, or by any credit union organized and supervised, or regulated, under the Credit Union Law.

(i) Any security issued or guaranteed by any railroad, other common carrier, public utility, or public utility holding company which is (1) subject to the jurisdiction of the Interstate Commerce Commission or (2) a holding company registered with the Securities and Exchange Commission under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that act or (3) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, of any state, of Canada or of any Canadian province; and the security is subject to registration with or authorization of issuance by such authority.

(j) Any security (except evidences of indebtedness, whether interest bearing or not) of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit, if no part of the net earnings of the issuer inures to the benefit of any private

shareholder or individual, or (2) organized as a chamber of commerce or trade or professional association. The fact that amounts received from memberships or dues or both will or may be used to construct or otherwise acquire facilities for use by members of the nonprofit organization does not disqualify the organization for this exemption. This exemption does not apply to the securities of any nonprofit organization if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the organization or operation of such nonprofit organization or from remuneration received from such nonprofit organization.

(k) Any agreement, commonly known as a "life income contract," of an issuer (1) organized exclusively for educational, benevolent, fraternal, religious, charitable, social, or reformatory purposes and not for pecuniary profit and (2) which the commissioner designates by rule or order, with a donor in consideration of a donation of property to such issuer and providing for the payment to the donor or persons designated by him or her of income or specified periodic payments from the donated property or other property for the life of the donor or such other persons.

(*l*) Any note, draft, bill of exchange, or banker's acceptance which is freely transferable and of prime quality, arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, provided that such paper is not offered to the public in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser. In addition, the commissioner may, by rule or order, exempt any issuer of any notes, drafts, bills of exchange or banker's acceptances from qualification of such securities when the commissioner finds that such qualification is not necessary or appropriate in the public interest or for the protection of investors.

(m) Any security issued by any corporation organized and existing under the provisions of Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code.

(n) Any beneficial interest in an employees' pension, profit-sharing, stock bonus or similar benefit plan which meets the requirements for qualification under Section 401 of the federal Internal Revenue Code or any statute amendatory thereof or supplementary thereto. A determination letter from the Internal Revenue Service stating that an employees' pension, profit-sharing, stock bonus or similar benefit plan meets such requirements shall be conclusive evidence that such plan is an employees' pension, profit-sharing, stock bonus or similar plan within the meaning of the first sentence of this subdivision until the date such determination letter is revoked in writing by the Internal Revenue Service, regardless of whether or not such revocation is retroactive.

(o) Any security listed or approved for listing upon notice of issuance on a national securities exchange or designated or approved for designation upon notice of issuance as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., if the exchange or interdealer quotation system has been certified by rule or order of the commissioner and any warrant or right to purchase or subscribe to any such security.

Such certification of any exchange or system shall be made by the commissioner upon the written request of the exchange or system if the commissioner finds that the exchange or system: (i) in acting on applications for listing of common stock substantially applies the minimum standards set forth in either alternative (A) or (B) of subparagraph (1), and (ii) in considering suspension or removal from listing or designation, substantially applies each of the criteria set forth in subparagraph (2).

(1) Listing standards:

(A) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Pretax income of at least seven hundred fifty thousand dollars ($750,000) in the issuer's last fiscal year or in two of its last three fiscal years.

(iii) Minimum public distribution of 500,000 shares (exclusive of the holdings of officers, directors, controlling shareholders, and other concentrated or family holdings), together with a minimum of 800 public holders or minimum public distribution of 1,000,000 shares together with a minimum of 400 public holders. The exchange or system may also consider the listing or designation of a company's securities if the company has a minimum of 500,000 shares publicly held, a minimum of 400 shareholders and daily trading volume in the issue has been approximately 2,000 shares or more for the six months preceding the date of application. In evaluating the suitability of an issue for listing or designation under this trading provision, the exchange or system shall review the nature and frequency of that activity and any other factors as it may determine to be relevant in ascertaining whether the issue is suitable for trading. A security which trades infrequently shall not be considered for listing or designation under this paragraph even though average daily volume amounts to 2,000 shares per day or more.

Companies whose securities are concentrated in a limited geographical area, or whose securities are largely held in block by institutional investors, normally may not be considered eligible for listing or designation unless the public distribution appreciably exceeds 500,000 shares.

(iv) Minimum price of three dollars ($3) per share for a reasonable period of time prior to the filing of a listing or designation application; provided, however, in certain instances an exchange or system may favorably consider listing an issue selling for less than three dollars ($3) per share after considering all pertinent factors,

including market conditions in general, whether historically the issue has sold above three dollars ($3) per share, the applicant's capitalization, and the number of outstanding and publicly held shares of the issue.

(v) An aggregate market value for publicly held shares of at least three million dollars ($3,000,000).

(B) (i) Shareholders' equity of at least four million dollars ($4,000,000).

(ii) Minimum public distribution set forth in subparagraph (1) (A) (iii).

(iii) Operating history of at least three years.

(iv) An aggregate market value for publicly held shares of at least fifteen million dollars ($15,000,000).

(2) Criteria for consideration of suspension or removal from listing:

(i) If a company which (A) has shareholders' equity of less than one million dollars ($1,000,000) has sustained net losses in each of its two most recent fiscal years, or (B) has net tangible assets of less than three million dollars ($3,000,000) and has sustained net losses in three of its four most recent fiscal years.

(ii) If the number of shares publicly held (excluding the holdings of officers, directors, controlling shareholders and other concentrated or family holdings) is less than 150,000.

(iii) If the total number of shareholders is less than 400 or if the number of shareholders of lots of 100 shares or more is less than 300.

(iv) If the aggregate market value of shares publicly held is less than seven hundred fifty thousand dollars ($750,000).

(v) If shares of common stock sell at a price of less than three dollars ($3) per share for a substantial period of time and the issuer shall fail to effectuate a reverse stock split of such shares within a reasonable period of time after being requested by the exchange to take such action.

The commissioner after appropriate notice and opportunity for hearing in accordance with the provisions of the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may, in his or her discretion, by rule or order, decertify any exchange or interdealer quotation system previously certified which ceases substantially to apply the minimum standards or criteria as set forth above. A rule or order of certification shall conclusively establish that any security listed or approved for listing upon notice of issuance on any exchange, or designated or approved for designation upon issuance as a national market system security on any interdealer quotation system, named in a rule or order of certification, and any warrant or right to purchase or subscribe to any such security, is exempt under this subdivision until the adoption by the commissioner of any rule or order decertifying such exchange or interdealer quotation system.

(p) A promissory note secured by a lien on real property, which is neither one of a series of notes of equal priority secured by interests

in the same real property nor a note in which beneficial interests are sold to more than one person or entity.

(q) Any unincorporated interindemnity or reciprocal or interinsurance contract, which qualifies under the provisions of Section 1280.7 of the Insurance Code, between members of a cooperative corporation, organized and operating under Part 2 (commencing with Section 12200) of Division 3 of Title 1, and whose members consist only of physicians and surgeons licensed in California, which contracts indemnify solely in respect to medical malpractice claims against such members, and which do not collect in advance of loss any moneys other than contributions by each member to a collective reserve trust fund or for necessary expenses of administration.

(1) Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of Section 1280.7 of the Insurance Code, the commissioner may in the commissioner's discretion bring an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with Section 1280.7 of the Insurance Code. Upon a proper showing a permanent or preliminary injunction, restraining order or writ of mandate shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets.

(2) The commissioner may, in the commissioner's discretion, (A) make such public or private investigations within or outside of this state as the commissioner deems necessary to determine whether any person has violated or is about to violate any provision of Section 1280.7 of the Insurance Code or to aid in the enforcement of Section 1280.7, and (B) publish information concerning the violation of Section 1280.7.

(3) For the purpose of any investigation or proceeding under this section, the commissioner or any officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.

(4) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the superior court, upon application by the commissioner, may issue to the person an order requiring the person to appear before the commissioner, or the officer designated by the commissioner, there to produce documentary evidence, if so ordered, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt.

(5) No person is excused from attending or testifying or from producing any document or record before the commissioner or in obedience to the subpoena of the commissioner or any officer designated by the commissioner, or in any proceeding instituted by

the commissioner, on the ground that the testimony or evidence (documentary or otherwise), required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture, but no individual may be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person is compelled, after validly claiming the privilege against self-incrimination, to testify or produce evidence (documentary or otherwise), except that the individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying.

(r) Any shares or memberships issued by any corporation organized and existing pursuant to the provisions of Part 2 (commencing with Section 12200) of Division 3 of Title 1, provided the aggregate investment of any shareholder or member in shares or memberships sold pursuant to this subdivision does not exceed three hundred dollars ($300). This exemption does not apply to the shares or memberships of any such corporation if any promoter thereof expects or intends to make a profit directly or indirectly from any business or activity associated with the corporation or the operation of such corporation or from remuneration, other than reasonable salary, received from such corporation. This exemption does not apply to nonvoting shares or memberships of any such corporation issued to any person who does not possess, and who will not acquire in connection with the issuance of nonvoting shares or memberships, voting power (Section 12253) in the corporation.

(s) Any security consisting of or representing an interest in a pool of mortgage loans which meets each of the following requirements:

(1) The pool consists of whole mortgage loans or participation interests in those loans, which loans were originated or acquired in the ordinary course of business by a national bank or federal savings and loan association or federal savings bank having its principal office in this state, by a bank incorporated under the laws of this state or by a savings association as defined in subdivision (a) of Section 5102 of the Financial Code and which is subject to the supervision and regulation of the Savings and Loan Commissioner, which at the time of transfer to the pool is an authorized investment for such originating or acquiring institution.

(2) The pool of mortgage loans is held in trust by a trustee which is a financial institution specified in paragraph (1) as trustee or otherwise.

(3) The loans are serviced by a financial institution specified in paragraph (1).

(4) Such security is not offered in amounts of less than twenty-five thousand dollars ($25,000) in the aggregate to any one purchaser.

(5) Such security is offered pursuant to a registration under the Securities Act of 1933, or pursuant to an exemption under Regulation A under such act, or in the opinion of counsel for the issuer, is offered pursuant to an exemption under Section 4(2) of that act.

SEC. 2. Section 25100.1 is added to the Corporations Code, to

read:

25100.1. Before the interdealer quotation system of the National Association of Securities Dealers, Inc., is certified pursuant to subdivision (o) of Section 25100, the commissioner shall determine and conclude that the National Association of Securities Dealers, Inc. has adopted and obtained Securities and Exchange Commission approval of corporate governance standards, including voting rights, which are substantially similar to the corporate governance standards, including voting rights, in effect on the date of application by the association for either the American Stock Exchange or the New York Stock Exchange or, in the case of voting rights, Rule 19c-4 of the Securities and Exchange Commission as proposed on June 22, 1987.

Certification of an interdealer quotation system pursuant to subdivision (o) of Section 25100 is subject to applicable decertification proceedings and is effective only for a period of 36 months from the date of certification.

SEC. 3. Section 25101 of the Corporations Code is amended to read:

25101. The following securities are exempt from the provisions of Section 25130:

(a) Any security issued by a person which is the issuer of any security listed on a national securities exchange, or designated as a national market system security on an interdealer quotation system by the National Association of Securities Dealers, Inc., which exchange or system is certified by rule or order of the commissioner.

(b) Any security (except limited or general partnership interests) issued by a person which (i) is the issuer of any security listed on a national securities exchange which is not certified by the commissioner pursuant to subdivision (a) hereof, (ii) is the issuer of any security registered under Section 12(g) of the Securities Exchange Act of 1934 or is exempt from registration under such Section 12 by Section 12(g) (2) (G) of that act, or (iii) is registered under the Investment Company Act of 1940, if in any such case, there has been filed with the commissioner a notice in such form as the commissioner shall specify by rule setting forth the following:

(1) The name of the issuer, the date of its organization, and the jurisdiction under whose laws it is organized;

(2) The issuer's taxpayer identification number as assigned by the federal Department of Internal Revenue and, if applicable, the issuer's file number under the Securities Exchange Act of 1934 or the Investment Company Act of 1940 as assigned by the federal Securities and Exchange Commission or other appropriate federal regulatory agency;

(3) A statement that the issuer has a currently effective registration under Section 12 of the Securities Exchange Act of 1934 (specifying the subsection thereof) or the Investment Company Act of 1940, or that it is exempt from registration under such Section 12 by Section 12(g) (2) (G) thereof;

(4) A statement that the issuer has a class of equity securities held by 500 or more persons and has total assets exceeding one million dollars ($1,000,000), determined in such manner as is provided by rule of the commissioner or, in the absence of a rule with respect to a determination of total assets, in accordance with generally accepted accounting principles;

(5) A description of each security of the issuer which is to be exempted pursuant to this subdivision, and a statement that each class of common stock described in that notice, if any, possesses full voting rights equal per share to the voting rights possessed by any other class of common stock of the issuer;

(6) An undertaking to file a supplemental notice if any of the facts stated in the notice previously filed with the commissioner shall, to the knowledge of the filer of that notice, cease to be true.

(7) The name and address of the person filing the notice, the signature of that person or of the authorized principal officer of that person (and the name of that principal officer), and a verification to the best knowledge or belief of the person signing the notice of all of the information contained in that notice.

The notice provided for herein may be filed by the issuer, any broker-dealer registered under this law or any holder of record or beneficially of any of the securities covered by the notice. Except in the case of a notice filed by an issuer, the exemption provided by this subdivision shall lapse 13 months after the filing of the notice.

(c) The exemption provided by subdivision (a) or (b) of this section shall not apply to any of the following:

(1) Securities offered pursuant to a registration under the Securities Act of 1933 or pursuant to the exemption afforded by Regulation A under that act if the aggregate offering price of the securities offered pursuant to that exemption exceeds fifty thousand dollars ($50,000);

(2) Securities which the commissioner has found, after notice and, if requested as hereinafter provided, hearing, to be the subject of a notice or supplemental notice filed pursuant to subdivision (b) which contains any statement which is, or which was at the time of filing, materially untrue. Notice hereunder shall be given to the person named pursuant to paragraph (7) of subdivision (b), to the issuer unless the notice or supplemental notice was filed by the issuer, and to licensed broker-dealers. The notice shall state the reasons for the issuance of the notice and that the exemption pursuant to this section for the security identified therein may be terminated unless, within 10 business days, either a notice or supplemental notice is filed in accordance with subdivision (b) or a written request for hearing is received, that hearing to commence within 15 business days of the receipt of the notice unless the commissioner consents to a later date. An order terminating an exemption pursuant to this paragraph shall be effective when issued or at such time thereafter as the commissioner may provide.

(3) All securities of an issuer when the commissioner has found

the issuer has ceased to have any securities registered under Section 12 of the Securities Exchange Act of 1934 or the issuer of which has ceased to have a class of equity securities held by 500 or more persons or total assets exceeding one million dollars ($1,000,000). An order may be issued under this paragraph without notice or hearing if the facts on which it is based are stated in a notice or supplemental notice filed pursuant to subdivision (b) or are stated in a certificate filed with the Securities and Exchange Commission pursuant to Section 12(g)(4) of the Securities Exchange Act of 1934; otherwise, the order shall be issued only as provided in paragraph (2) of this subdivision.

CHAPTER 717

An act to amend Sections 21641 and 21642 of the Business and Professions Code, relating to secondhand dealers.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 30, 1988]

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

SECTION 1. Section 21641 of the Business and Professions Code is amended to read:

21641. (a) The chief of police, the sheriff or, where appropriate, the police commission, shall accept an application for and grant a license permitting the licensee to engage in the business of secondhand dealer, as defined in Section 21626, to an applicant who has not been convicted of an attempt to receive stolen property or any other offense involving stolen property. Prior to the granting of a license, the licensing authority shall submit the application to the Department of Justice. If the Department of Justice does not comment on the application within 30 days thereafter, the licensing authority may grant the applicant a license. All forms for application and licensure, and license renewal, shall be prescribed and provided by the Department of Justice. A fee may be charged to the applicant as specified by the Department of Justice for processing the initial license application.

(b) For the purposes of this section, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere.

(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a secondhand dealer's license solely on the grounds that he or she violated any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

SEC. 2. Section 21642 of the Business and Professions Code is amended to read:

21642. (a) A license granted pursuant to Section 21641 shall be renewable one year from the date of issue, and annually thereafter, upon the filing of a renewal application and the payment of a license renewal fee specified by the licensing authority.

(b) The license shall be subject to forfeiture by the licensing authority and the licensee's activities as a secondhand dealer shall be subject to being enjoined pursuant to Section 21646 for breach, and the authority may impose any of the following conditions:

(1) The business shall be carried on only in the building or buildings designated on the license.

(2) The license or a copy thereof, certified by the licensing authority, shall be displayed on the premises where it easily can be seen.

(3) The licensee shall not engage in the business of secondhand dealer, as defined in Section 21626, with any minor.

(4) The licensee shall not engage in any act which the licensee knows to be in violation of this article.

(5) The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property. For the purposes of this paragraph, "convicted" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the chief of police, the sheriff or, where appropriate, the police commission, is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(c) Notwithstanding subdivisions (a) and (b), no person shall be denied a secondhand dealer's license solely on the grounds that he or she violated any provision contained in Article 4 (commencing with Section 21625) or Article 5 (commencing with Section 21650) of this chapter, or any provision contained in Chapter 2 (commencing with Section 21200) of Division 8 of the Financial Code, unless the violation demonstrates a pattern of conduct.

CHAPTER 718

An act to amend Sections 863, 5500, 5501.5, 5606, 5613, 5615, 5616, 5617, 5621, 5654, 6475, 6551, 7100, 7250, 7453, 7500, 8154, 8159, 8200, 8225, 8250, and 8251 of, to add Sections 5612, 7509, 8230, and 8254 to, and to add Article 10 (commencing with Section 5860) to Chapter 2 of Division 2 of, Article 2.5 (commencing with Section 7260) to Chapter 6 of Division 2 of, and Article 11 (commencing with Section 7800) to Chapter 6 of Division 2 of, the Financial Code, relating to savings associations.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 30, 1988.]

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

SECTION 1. Section 863 of the Financial Code is amended to read:

863. (a) No bank shall impose any charge on a savings account or on a depositor for the failure of a depositor to deposit, or for the late deposit of, any agreed periodic installment deposit into that account. A bank shall pay interest on savings accounts as to which a depositor has agreed to make periodic installment deposits at a rate of interest per annum that is not less than the lowest rate paid on other types of savings deposits.

(b) As used in this section "savings account" means a Christmas club account, a vacation club account, or other similar periodic installment deposit account maintained by a natural person, irrespective of its classification as a savings deposit or time deposit open account for purposes of state or federal law or regulations.

SEC. 1.5. Section 5500 of the Financial Code is amended to read:

5500. Within 60 days after issuance of an organizing permit under Article 1 (commencing with Section 5400) any person may request authority to form a capital stock or mutual association by filing with the commissioner three copies of a petition for a certificate of authority and proposed articles of incorporation. The petition shall also be accompanied by three copies of proposed bylaws which shall make provisions for the following:

(a) Annual and special meetings of members or stockholders, and notice of meetings.

(b) Procedure for nomination of directors.

(c) Meetings of board of directors.

(d) Resignation and removal of directors.

(e) Compensation of directors.

(f) Officers.

(g) Execution of instruments.

(h) Evidence of savings accounts.

(i) Corporate seal.

(j) Fiscal year.

(k) Amendments.

(*l*) Disaster preparedness.

(m) Other matters, if any.

The petitioners shall submit with their petitions any applicable filing fee prescribed under Section 9001 and any statements, exhibits, maps, and other data that the commissioner may require by written instruction in a form which is sufficiently detailed and comprehensive to enable the commissioner to make a decision on the petition based on the criteria set out in Section 5502.

SEC. 2. Section 5501.5 of the Financial Code is amended to read:

5501.5. The articles of incorporation of each domestic association

incorporated after January 1, 1984, shall include a statement that it is formed for each of the following purposes:

(a) To engage primarily in the specific business of a savings association and any other lawful activities not prohibited to a savings association by applicable laws and regulations.

(b) To encourage industry, frugality, home building, and the accumulation of savings. That statement shall add either "among its members" or "among its savings account holders" and may also add "and among others."

(c) For the loaning of the money accumulated, with the interest and earnings thereon. The statement shall add either "to its members" or "to its savings account holders" and the statement may also add "and to others."

(d) For the repayment subject to the provisions of this division and any act amendatory thereof or supplementary thereto of the savings and interest to each savings account holder whenever the savings account holder desires to withdraw the same, or when the association desires to repay the same.

(e) In the case of a stock association, for the purpose of issuing capital stock and savings accounts.

(f) In the case of a mutual association, for the purpose of accumulating capital by the issuance of savings accounts and to grant holders of savings accounts the right to be a member of the association with entitlement to one vote for each one hundred dollars ($100) of the withdrawal value of each savings account to be voted in person or by proxy to transact the business of the association.

(g) For any and all purposes specified in the Savings Association Law with all the rights, powers, privileges and immunities as set forth in that law.

The above provisions are in lieu of paragraph (1) of subdivision (b) of Section 202 of the Corporations Code and may be supplemented or modified with such provisions as the commissioner may approve.

SEC. 3. Section 5606 of the Financial Code is amended to read:

5606. (a) Prior to doing business in this state, an association shall obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation.

(b) Prior to doing business in this state, a foreign savings association, as defined in Sections 10000 and 10010, shall maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

(c) The commissioner may enforce any statutes or regulations of the Federal Savings and Loan Insurance Corporation, (12 U.S.C. Sec. 1724 et seq. and 12 C.F.R. 561 et seq.) or the Federal Deposit Insurance Corporation (12 U.S.C. Sec. 1811 et seq. and 12 C.F.R. 300 et seq.) as these statutes and regulations apply to associations.

SEC. 4. Section 5612 is added to the Financial Code, to read:

5612. For the purposes of this article, "security" means any stock, subordinated debenture, warrant, or right or option to purchase any

stock issued by an association.

SEC. 5. Section 5613 of the Financial Code is amended to read:

5613. (a) No association shall sell, except upon a sale for a delinquent assessment made in accordance with the provisions of the General Corporation Law, or offer for sale, or take subscriptions for, or issue any of its securities (except stock dividends), until the association has applied for and obtained from the commissioner a permit authorizing it to offer, sell or issue that security.

(b) Notwithstanding subdivision (a), an association may enter into agreements for the sale of securities with accredited investors (as defined in Section 230.215 of the Securities Exchange Commission regulations) or persons approved by the commissioner prior to obtaining a permit pursuant to subdivision (a).

(c) The commissioner may, by regulation, instruction, or order exclude certain transactions from the operation of this section.

SEC. 6. Section 5615 of the Financial Code is amended to read:

5615. An application for a permit to sell securities shall be in writing, verified as provided in the Code of Civil Procedure for the verification of pleadings, and shall be filed in the office of the commissioner by the association or the selling stockholders. The application shall include the following:

(a) Regarding the association.

(1) The names and addresses of its officers.

(2) The location of its office.

(3) A balance sheet or statement of its financial condition as of a date within 90 days of the filing date.

(4) A copy of all minutes of any proceedings of its directors, shareholders, or stockholders relating to or affecting the issue of such securities.

(b) Regarding the offering.

(1) A brief description of the method by which the securities are to be offered for sale, including the offering price and the underwriting commissions and expense, if any.

(2) A copy of a prospectus or advertisement or other description of the securities prepared for distribution or publication in accordance with requirements prescribed by the commissioner.

(3) A copy of any contract concerning the sale of the securities.

(4) With respect to any permit issued pursuant to Section 5614, the names and addresses of the selling stockholders and of the officers of any selling corporation and the partners of any selling partnership.

(c) Such additional information as the commissioner may require.

(d) An application fee as prescribed by the commissioner pursuant to Section 9001.

SEC. 7. Section 5616 of the Financial Code is amended to read:

5616. Upon the filing of the application for a permit to sell securities, the commissioner shall examine the application and other papers and documents filed therewith, and he or she may make a detailed examination, audit, and investigation of the association and

its affairs. If the commissioner finds that the proposed plan for the issue and sale of such securities is fair, just, and equitable, the commissioner shall issue to the applicant a permit authorizing it to issue and dispose of its securities in such amounts and for such considerations and upon such terms and conditions as the commissioner may provide in the permit. If the commissioner does not so find, the commissioner shall deny the application and notify the applicant in writing of his or her decision.

SEC. 8. Section 5617 of the Financial Code is amended to read:

5617. Every permit to sell securities shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued.

SEC. 8.5. Section 5621 of the Financial Code is amended to read:

5621. With the approval of the commissioner, a mutual association may amend its articles of incorporation to authorize the issuance of stock and may issue stock. Any amendment to the articles of incorporation and bylaws of an association which for the first time authorizes it to issue stock must be approved by the vote or written assent of a majority of the total votes of members outstanding, except that such an amendment shall require approval only of the commissioner and board of directors of an association if the commissioner finds that grounds exist for the appointment of a conservator for the association pursuant to subdivision (a) of Section 8225. An amendment to the articles of incorporation of an association pursuant to this section may include provisions with respect to the surplus, reserves, and undivided profits of the association and in that case the surplus, reserves, and undivided profits shall be retained and disposed of in accordance with such provisions. The corporate existence of a mutual association which amends its articles of incorporation to authorize the issuance of stock and which issues stock shall continue to be, and the resulting stock association shall be deemed to be, a continuation of the mutual association.

SEC. 9. Section 5654 of the Financial Code is amended to read:

5654. (a) Without the prior approval of the commissioner, as provided in this division, no association shall do any of the following:

(1) Establish or maintain any office, other than its home office, which shall be in the location named in the certificate of authority.

(2) Change the location or designation of any office from its approved location or designation.

(3) Change its corporate name by amendment of its articles of incorporation and its certificate of authority. A change of name is subject to the same criteria as set out in Sections 5650 and 5651.

(4) Amend its articles of incorporation or bylaws.

(5) Establish or maintain a subsidiary.

(6) Acquire all or substantially all of the assets or savings account liabilities of a branch or branches of another financial institution.

(b) Applications for approval under this section shall be filed in the office of the commissioner, shall include information as

prescribed by regulation or written instruction of the commissioner, and shall be accompanied by any filing fee prescribed by the commissioner pursuant to Section 9001.

(c) A public hearing may be held on applications filed under this section in accordance with procedures prescribed by law or by regulations adopted by the commissioner.

(d) No certificate of amendment or other certificate to amend the articles of incorporation of an association shall be filed in the office of the Secretary of State unless there is attached thereto the certificate of the commissioner approving the certificate.

(e) Applicants filing under this division shall publish notice as prescribed by the commissioner.

SEC. 10. Article 10 (commencing with Section 5860) is added to Chapter 2 of Division 2 of the Financial Code, to read:

Article 10. Mutual Holding Companies

5860. Notwithstanding any other provision of law, but subject to prior approval of the commissioner, any mutual association may reorganize so as to become a mutual holding company by causing a reorganized savings and loan association to be incorporated and organized as a stock association under this chapter, transferring to the reorganized stock association a substantial part of the assets of that mutual association and causing the reorganized stock association to assume all or a substantial part of the liabilities of the mutual association, including all of its savings account liabilities.

5861. Upon transfer of assets and assumption of liabilities pursuant to Section 5860, persons who prior thereto held savings accounts with, or other rights as creditors of, the mutual association with respect to accounts and liabilities transferred shall have such accounts and rights solely with respect to the reorganized stock association, and the corresponding liability or obligation of the mutual association to those persons shall be assumed by the reorganized stock association without a change in terms. Persons who had ownership, liquidation, or voting rights with respect to the mutual association shall continue to have those rights solely with respect to the mutual association in its reorganized form as a mutual holding company.

5862. A reorganization of a mutual association pursuant to this article shall be approved by the board of directors and by the members of the mutual association.

5863. An application to the commissioner for approval of a reorganization under this article shall contain such relevant information as the commissioner may require. The commissioner may disapprove any proposed mutual holding company formation and refuse to issue a certificate of authority for the reorganized stock association only if within 60 days after the date of filing of a completed application he or she finds the following:

(a) The disapproval is necessary to prevent unsafe and unsound

practices.

(b) The financial or managerial resources of the mutual association warrant disapproval.

(c) The mutual association fails to furnish the information required by the commissioner pursuant to this section.

(d) The mutual association fails to comply with the requirements of Section 5862.

5864. In connection with reorganization pursuant to the provisions of this article, a mutual association may, subject to the approval of the commissioner, retain capital assets at the holding company level to the extent that the capital exceeds adequate reserves as prescribed by state or federal law.

5865. A mutual holding company shall be deemed to be a savings association continuing its organization under this division and may engage only in activities authorized for an association, but may not issue or accept savings accounts or other deposits and the provisions of subdivision (a) of Section 5606 requiring insurance of savings accounts by the Federal Savings and Loan Insurance Corporation shall not be applicable. The articles of incorporation of the mutual holding company shall be amended to delete any inappropriate statements otherwise required by Section 5501.5 and shall include the following statement:

"This corporation is a mutual holding company organized under the California Savings Association Law (Article 10 (commencing with Section 5860) of Chapter 2 of Division 2 of the Financial Code)."

5866. Sections 5801, 5802, and 5803 shall not apply to a reorganization pursuant to this article.

5867. Notwithstanding any other provision of law, a reorganized stock association may exercise any and all powers, rights, and privileges of and be subject to all limitations not inconsistent with this article which are applicable to stock associations as provided in this division.

5868. A reorganized stock association shall have the power to issue additional amounts of capital stock to the mutual holding company of which it is a subsidiary and, in addition, to other persons an amount of capital stock and securities convertible into capital stock which in the aggregate does not exceed 49 percent of the issued and outstanding capital stock of that organized association. For the purposes of the 49 percent limitation, any issued and outstanding securities that are convertible into capital stock shall be considered issued and outstanding capital stock.

SEC. 11. Section 6475 of the Financial Code is amended to read:

6475. (a) Each association shall maintain an adequate statutory net worth appropriate for the conduct of its business and the protection of its savings account holders.

(b) The commissioner shall fix a minimum statutory net worth requirement applicable to all associations, which shall not be less than 3 percent of an association's total assets. In defining total assets, the commissioner may issue regulations to exclude from the total

asset figure any asset items deemed appropriate by the commissioner.

(c) If the statutory net worth falls below the level specified by the commissioner, the commissioner may require the association to increase its statutory net worth within the time and in a manner designated by the commissioner, so as to bring the amount to the level determined adequate under this section, and may require the association to do any one or more of the following:

(1) Increase its liquid assets and maintain that increased liquidity at the level specified by the commissioner.

(2) Cease to:

(A) Accept savings accounts of all classes or categories, except in exchange for accounts already outstanding.

(B) Accept savings accounts of any particular class, category, or amount.

(C) Receive additional funds upon savings accounts already outstanding other than installment accounts.

The provisions of paragraph (2) of subdivision (c) shall not prevent an association from crediting to savings accounts the interest earned on the accounts.

(3) Cease all lending, lending in a particular area, or making a particular type or category of loans.

(4) Cease purchase of loans or other investments.

(5) Cease or limit promotional expenditures.

(6) Convene a meeting or meetings of its board of directors with the commissioner in attendance to accomplish the objectives of this section.

(7) Take any other steps that the commissioner deems necessary to safeguard the interests of the association and the public.

SEC. 11.5. Section 6551 of the Financial Code is amended to read:

6551. (a) An agency of an association is a place or facility, stationary or mobile, other than the home office, a remote service unit, or a branch office, at or through which the association may transact business that is specified by the board of directors and approved by the commissioner.

(b) The agency may perform other special duties and functions as may be directed from time to time by the home office or a branch office and approved by the commissioner.

(c) An agency may perform only those activities, duties, or functions as are authorized for savings associations by the provisions of this division or regulations of the commissioner.

SEC. 12. Section 7160 of the Financial Code is amended to read:

7160. (a) Notwithstanding any other provision of law, but subject to subdivision (b), an association may permit the owner of a deposit or account to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) With respect to deposits or accounts on which interest or dividends are paid, subdivision (a) shall apply only to the deposits or accounts which consist solely of funds in which the entire beneficial

interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit.

(c) Notwithstanding any other provision of law, an association may provide for the automatic transfer of funds services at the direction of an account holder.

SEC. 13. Section 7250 of the Financial Code is amended to read:

7250. Notwithstanding any other provision of law, an association may invest in the following securities without limit, and in addition may invest not in excess of 5 percent of its assets in other securities that are deemed prudent by the association:

(a) Bonds or other interest bearing notes and obligations of the United States and those for which the faith and credit of the United States are pledged for the payment of principal and interest, or obligations that are fully guaranteed as to principal and interest by, the United States, any state, or any state's political subdivisions, including its agencies, corporations and instrumentalities.

(b) Stock, bonds or obligations of any federal home loan bank.

(c) Stock or obligations of any international home loan bank or similar agency incorporated by authority of an act of Congress.

(d) Stock or obligations of the Federal Savings and Loan Insurance Corporation.

(e) Stock, obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or any other agency of the United States and an association may issue and sell securities that are guaranteed under paragraph (g) of Section 306 of the National Housing Act (12 U.S.C. Sec. 1701 et seq.).

(f) Bonds, other evidences of indebtedness or obligations of, or guaranteed as to principal and interest by, the Dominion of Canada or any of its provinces, provided that the principal and interest of the obligations are payable in United States funds.

(g) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank, or by the Asian Development Bank.

(h) Demand, time or savings deposits, shares or accounts, or other obligations of any financial institution the accounts of which are insured by a federal agency.

(i) Commercial paper and corporate debt securities, as defined and approved by regulations issued by the commissioner. Investments under this subdivision in the paper or securities of any one obligor or maker shall not exceed the greater of (1) the amount a national bank having identical total capital and surplus could so invest in the paper or securities of any one obligor or maker, or (2) the amount a commercial bank, as defined in Section 105, having an identical shareholders' equity could so invest in the paper or

securities of any one obligor or maker.

(j) Shares or certificates in any open-end management investment company that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by the management company's investment policy, changeable only if authorized by shareholder vote, primarily to investments authorized under this section.

(k) Bankers' acceptances of the kind, character, and maturity eligible for rediscount with a Federal Reserve bank, and such other bonds and securities as authorized by Article 2.5 (commencing with Section 7260) or as the commissioner may authorize by rules and regulations.

SEC. 14. Article 2.5 (commencing with Section 7260) is added to Chapter 6 of Division 2 of the Financial Code, to read:

Article 2.5. Other Authorized Investments in Bonds and Securities

7260. Stock of a Federal Reserve bank.

7261. Bonds of the State of California and those for which the faith and credit of the State of California are pledged for the payment of principal and interest, and registered warrants of the State of California.

7262. Bonds of any flood control and water conservation districts, or any zone thereof, having an assessed valuation on taxable real property of not less than one million dollars ($1,000,000), county, city and county, city, metropolitan water district, municipal utility district, any special district established by and within any municipal utility district, transit district, rapid transit district, including sales tax revenue bonds of that district of the State of California (herein referred to generally as public corporations) except the bonds of any particular such public corporation which may be declared ineligible for investment by commercial banks by regulations of the superintendent.

7263. Bonds of any other political subdivision, public corporation, or district of the State of California (herein referred to generally as public corporations) having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of those bonds upon all property within its boundaries subject to taxation by the public corporation, provided the net direct debt of that public corporation together with its net overlapping debt does not exceed 25 percent of the assessed valuation of the taxable property within its boundaries according to the last offical equalized county assessment roll.

7264. Bonds or other evidences of indebtedness of, or which are unconditionally guaranteed by the State of Israel, the United States of Mexico, the Commonwealth of Puerto Rico, or any state of the United States other than California, for the payment of both

principal and interest of which in United States dollars, the faith and credit of that entity is pledged; in limited obligations; and in the bonds or other evidences of indebtedness of any city, county, political subdivision, public corporation, or district (herein referred to generally as public corporations) of any state of the United States other than California, or of the State of Israel, or of the United States of Mexico, or of the Commonwealth of Puerto Rico, having the power without limit as to rate or amount to levy taxes to pay the principal and interest of those bonds upon all property within its boundaries subject to taxation by that public corporation; subject to the following:

(a) In the case of bonds constituting general obligations of any such state, commonwealth, dominion, or country, the state, commonwealth, dominion, or country has not within 10 years prior to that investment defaulted for a period of more than 90 days in the payment of any part of either principal or interest of any of its debts.

(b) In the case of limited obligations of any such state or commonwealth, (1) that the state or commonwealth has not within 10 years prior to the date of the investment defaulted for a period of more than 90 days in the payment of either principal or interest of any of its debts; (2) the special taxes pledged for the payment of the limited obligations shall have been collected for five fiscal years next preceding any investment and during the five fiscal years shall have averaged at least 1½ times the debt service requirements, including those for principal, interest, and sinking fund, on all such special obligations existing at the time; and (3) the special taxes for each of those five fiscal years shall have equaled at least the amount of all the debt service requirements on those special obligations.

(c) In the case of bonds or other evidences of indebtedness of any public corporation of any state other than California, or of such commonwealth:

(1) The public corporation has had a corporate existence or been otherwise established and functioning for at least 10 years prior to the time of the investment.

(2) The public corporation has a population of at least 50,000 inhabitants according to the last federal or state census.

(3) The public corporation for a period of at least 10 years prior to the investment has not defaulted in the payment of any part of the principal or interest of any of its debts for a period of more than 90 days.

(4) The net direct debt together with the net overlapping debt of the public corporation does not exceed 10 percent of the assessed valuation of the property subject to taxation by the public corporation according to the last, official equalized assessment roll or list upon the basis of which taxes for debt service are based. For the purposes of this subdivision:

(A) The term "net direct debt" of any public corporation means all indebtedness of every kind after deducting from that indebtedness sinking funds available for the payment thereof, any

indebtedness evidenced by tax anticipation notes for the payment of which nondelinquent taxes are pledged, obligations payable only from special assessments, revenue obligations payable only from special revenues pledged for their payment, and the proportion of any indebtedness issued for revenue-producing works, properties, or utilities which have been in operation for at least one year as the amount of the annual net revenue therefrom bears to the amount of the annual debt service requirements of those bonds.

(B) The term "net overlapping debt" of any public corporation means that proportion of the net direct debt, as defined, of any other public corporation (herein called overlapping corporation) which lies wholly or partially within the boundaries of the public corporation as the assessed valuation of the taxable property of the overlapping public corporation lying within the boundaries of the public corporation as shown by the last official equalized county assessment roll bears to the assessed valuation of all taxable property of the overlapping public corporation as shown by the last official equalized county assessment roll.

7265. Bonds of any irrigation district, water, storage district, water conservation district, county water district, reclamation district, drainage district, and any district the primary function of which is the irrigation, reclamation, or drainage of land within its boundaries, located in California, other than bonds referred to in Section 7262, subject to any of the following:

(a) The bonds qualify under Section 7263.

(b) The bonds have been certified as legal securities pursuant to Chapter 1 (commencing with Section 20000) of Division 10 of the Water Code and the certification remains unrevoked.

(c) The total outstanding bonded indebtedness of the district, including bonds authorized, but not issued, but excluding bonds payable solely from revenues and not directly or indirectly from assessments, does not exceed 50 percent of the aggregate of the assessed value of the lands, exclusive of improvements, subject to assessment by the district, and the value of the property owned by the district or to be acquired or constructed with the proceeds of the bonds under consideration.

7266. Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, the Farm Credit Act of 1971, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, and the Farm Credit Act of 1971, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, and in stocks, bonds, debentures, participations, and other obligations of, or issued by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Corporation.

7267. Bonds, notes, or other obligations issued by the Federal Financing Bank, the United State Postal Service, or issued or assumed by the International Bank for Reconstruction and Development, the Tennessee Valley Authority, the Inter-American Development Bank, the Government Development Bank for Puerto Rico, the Asian Development Bank, or the African Development Bank.

7268. (a) Notes with a maturity not exceeding 15 months after the date of issue, issued in anticipation of uncollected taxes, income, revenue, cash receipts, and other moneys of the State of California or any city, county, city and county, or school district, therefore, provided the notes and warrants and the interest thereon shall be a first lien and charge against, and shall be payable from, the first moneys received by the local agency from the pledged moneys, provided the total amount of the notes issued at any one time or during any specified period does not exceed 85 percent of the receipts or revenues.

(b) Grant anticipation notes issued by the agencies and payable not later than 36 months after the date of issue, provided that the total amount of the notes and interest payable thereon issued at any one time or during any specified period does not exceed 80 percent of the grant funds stated in writing by the granting authority as committed, appropriated and shall be paid on a specified date or dates within a 36-month period from the dating of the notes.

7269. In revenue securities of any state of the United States, or of the Commonwealth of Puerto Rico, and of any city, county, city and county, political subdivision, public corporation, or district (herein referred to generally as public corporations) of any such state or commonwealth and of any department, board, agency, or authority of any such state or commonwealth or of any public corporation subject to the following:

(a) The revenue securities constitute obligations payable out of the revenues from a revenue-producing property owned, controlled, or operated by the state, commonwealth, public corporation, or by a department, board, agency, or authority thereof and are secured by those revenues.

(b) Either:

(1) The new income from the property available for the payment of the securities for the five fiscal years next preceding any such investment, shall have averaged at least one and one-tenth times all debt service requirement for principal, interest, and sinking fund of all revenue securities payable only out of the revenues from the property during each of those fiscal years, and for each of those five fiscal years shall have equaled at least all debt service requirements for principal, interest and sinking fund of those securities, and for the last fiscal year shall have amounted to at least the maximum annual debt service requirement for any fiscal year thereafter on all such securities which were outstanding during the last fiscal year and which will be outstanding in any fiscal year thereafter.

The gross income from the property, the net income from which is pledged for the payment of those securities, in the last fiscal year prior to that investment was not less than one million dollars ($1,000,000), is located in California, and was not less than five million dollars ($5,000,000) if located elsewhere.

The issuer is obligated to maintain rates at least sufficient to meet debt service requirements and those obligations are legally enforceable.

(2) The issuer of the securities is entitled to receive under a legally enforceable contract with a corporation any of the securities of which are a legal investment for commercial banks under Division 1, annual payments averaging not less than nine hundred thousand dollars ($900,000) a year commencing with the completion of a project or projects as fixed in the construction contract therefore and continuing during the maximum term for which those revenue securities are to mature.

The issuer of the securities is obligated to maintain rates to produce revenue, or will receive contract payments, either or both of which will be sufficient to meet debt service requirements and that obligation contract is legally enforceable.

(c) The public corporation or any department, board, agency, or authority thereof which issues the securities, if existing elsewhere than in California, has not within 10 years prior to that investment defaulted for a period of more than 90 days in the payment of principal or interest on any of its debts.

7270. Bonds of any local public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either, (a) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of those obligations (which obligations shall have a maturity of not more than 18 months), moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on the obligations) will suffice to pay the principal of those obligations with interest to maturity thereon, which moneys under the terms of that agreement are required to be used for the purpose of paying the principal of, and the interest on, those obligations at their maturity, or (b) by a pledge of annual contributions under an annual contributions contract between the public housing agency and the Public Housing Administration if the contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to subsection (b) of Section 22 of the United States Housing Act of 1937 shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and

interest on those obligations.

7271. Bonds secured by an insurance commitment of the Federal Housing Administration.

7272. Evidences of indebtedness of companies incorporated in the United States and, directly or indirectly, engaged in manufacturing, extraction, merchandising, or commercial financing and in bonds of authorities established pursuant to the California Industrial Development Financing Act (Title 10 (commencing with Section 91500) of the Government Code), to which those institutions are obligated with respect to payment, provided:

(a) Any unsecured evidences of indebtedness shall be issued by a company substantially all of whose property is free of mortgage and shall carry a covenant by the obligor that they will be secured equally with any mortgage bond, except a purchase money mortgage, which may be later issued.

(b) The company is of such size as to attract at least statewide interest in its publicly held securities and its gross income shall have averaged not less than ten million dollars ($10,000,000) and its net income shall have averaged not less than one million dollars ($1,000,000) for the five fiscal years preceding the investment and its gross income was not less than one million dollars ($1,000,000) for at least three of those five fiscal years.

(c) Working capital as measured by consolidated current assets less consolidated current liabilities as shown in the latest published balance sheet shall exceed 150 percent of the total of consolidated debt due in longer than one year and "minority interest" (i.e., any outstanding interest in a subsidiary having a prior claim on the earnings of the subsidiary), except that the foregoing ratio requirement shall not apply in the case of evidences of indebtedness of any corporation whose consolidated gross assets less any valuation reserves exceed five hundred million dollars ($500,000,000) and whose consolidated current assets exceed consolidated current liabilities by at least one hundred million dollars ($100,000,000) as shown by the latest published balance sheet. When new financing is involved, the changes in gross assets, capital structure, and working capital shall be considered and reliance may be placed on the representations made in the official prospectus prepared under the rules of the Securities and Exchange Commission as to the application of the proceeds of that financing.

(d) The total consolidated debt of the company including current liabilities and "minority interest" (i.e. any outstanding interest in a subsidiary having a prior claim on the earnings of the subsidiary), as shown on the latest published balance sheet, does not exceed 33⅓ percent of its gross assets less valuation reserves.

(e) The consolidated annual net income for the five fiscal years next preceding the investment, before deductions of state and federal taxes imposed on or measured by income or profits but after deducting all charges (including reserves, regularly recurring charges for amortization of discount, and expense allocable to funded

debt) (1) shall have averaged not less than six times the annual consolidated interest charges existing at the time the investment is made; (2) in at least three of those five fiscal years shall have been at least four times the annual consolidated interest charges for the same year; and (3) for the fiscal year next preceding the investment shall have been not less than six times the consolidated interest charges for that year and not less than six times the annual consolidated charges on the funded debt outstanding at the time of the investment.

7273. Fixed interest railroad bonds meeting the requirements of subdivisions (a) and (b), bonds secured by a mortgage on jointly operated railroad facilities meeting the requirements of subdivision (c), and railroad equipment trust certificates meeting the requirements of subdivision (d), as follows:

(a) The railroad bonds are issued by or are assumed, guaranteed, or provision is made unconditionally for the payment of principal and interest on specified dates, by a solvent railroad company:

(1) Which operates at least 500 miles of standard gauge road within the continental United States and which has had average annual operating revenues of at least ten million dollars ($10,000,000) during the five years next preceding the investment.

(2) Whose average annual balance of income available for fixed charges for the last 15 years for which the necessary statistical data are available, when divided by an amount equal to its fixed charges for the last fiscal year, shall produce a quotient which is at least 15 percent higher than the quotient obtained by dividing the average annual balance of income available for fixed charges of all class 1 railroads for the same 15 year period by an amount equal to the fixed charges of all class 1 railroads for the last year in the period.

(3) Whose average "balance of net income" (computed by deducting the sum of its fixed charges and contingent interest charges for the latest fiscal year from the average annual balance available for fixed charges for the latest 15 years for which the necessary statistical data are available) when divided by its average annual railroad operating income for the same 15 year period, shall produce a quotient at least 15 percent greater than the quotient obtained by dividing the average balance of income of all class 1 railroads, computed in the same manner, by the average annual railway operating income of all class 1 railroads for the same 15 year period.

(4) Whose average balance of income available for fixed charges for the last three fiscal years preceding the investment (or for such lesser number of fiscal years as may have elapsed since December 31, 1946) has not been less than one and one-half times its fixed charges for the last fiscal year.

(b) The railroad bonds are secured by any of the following:

(1) A mortgage (either direct or collateral) which shall be a first mortgage on not less than 75 percent of the mileage subject to the mortgage.

(2) A first mortgage on terminal properties comprising the company's principal freight or passenger terminal in a city of not less than 250,000 population according to the latest federal or state census.

(3) A refunding mortgage on not less than 75 percent of the railroad mileage owned or operated by the issuing company under which bonds may be issued for retirement or refunding of all debts secured by prior liens on all or any part of the property (other than liens on equipment) subject to the mortgage; provided, that the amount of debt senior to the refunding mortgage is not more than 50 percent of the sum of all senior debt and the refunding mortgage, or that underlying mortgage bonds in an amount equal to at least 50 percent of the debt outstanding under the refunding mortgage are pledged as security under that refunding mortgage.

(4) A first mortgage on railroad property leased to and operated by the company where the lease extends beyond the maturity date of the bonds and the company has guaranteed, assumed, or committed itself under the terms of the lease to pay principal and interest on the bonds.

(c) Bonds secured by a mortgage on jointly operated railroad facilities shall be secured by a first mortgage on a terminal, depot, tunnel, or bridge used by or leased to two or more railroads which have jointly and severally agreed unconditionally to pay the interest and principal payment, one of which railroads shall meet the requirements set forth in subdivision (a).

(d) Railroad equipment trust certificates shall be issued by a solvent class 1 railroad whose average balance of income available for fixed charges for the last three fiscal years preceeding the investment (or for such lesser number of fiscal years as may be elapsed since December 31, 1946) shall be not less than one and one-half times its fixed charges for the last fiscal year. Those certificates shall be issued to provide funds for the construction or acquisition of new standard gauge railroad equipment made with the approval of the Interstate Commerce Commission and secured by an equipment trust, lease, conditional sales contract, or first lien on the equipment. The aggregate principal amount of the obligations shall not exceed 80 percent of the purchase price of the equipment and the certificates shall mature within 15 years of the date of issuance in equal annual, semiannual, or monthly installments, beginning not later than one year after the date of issuance.

(e) As used in this section, the terms "balance of income available for fixed charges," "fixed charges," "contingent interest," and "railway operating income" shall have the same meaning as in the accounting reports filed by common carriers by rail pursuant to regulations of the Interstate Commerce Commission, except that "balance of income available for payment of fixed charges" shall be computed before deduction of federal income of excess profits taxes, and "fixed charges" and "contingent interest" of the railroad shall be those charges existing as of the time the computation is made

excluding charges with respect to debt which has been retired or will be retired within six months and for the payment of which funds have been or are contemporaneously being set aside in trust but including charges with respect to new debt issued or in the process of being issued.

7274. Bonds and debentures of gas, electric, or gas and electric companies meeting the requirements of subdivision (a), bonds and debentures of telephone companies meeting the requirements of subdivision (b), and the bonds and debentures of water companies meeting the requirements of subdivision (c), as follows:

(a) Bonds or debentures of gas, electric, or gas and electric companies shall be of an issue which originally amounted to not less than one million dollars ($1,000,000) and, if bonds, be secured by a mortgage on substantially all of its physical property, and, if debentures, shall be issued by a company substantially all of whose physical property is free of mortgage and shall carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a public utility corporation, which does all of the following:

(1) Derives more than 50 percent of its gross operating revenue from the business of supplying electricity, artificial gas, or natural gas or all or any of these services, and at least 80 percent of its gross operating revenue from all or any of the public utility businesses enumerated in this section.

(2) Has a gross operating revenue of not less than seven million five hundred thousand dollars ($7,500,000) for its most recent fiscal year.

(3) Has a funded debt not exceeding two-thirds of the value of its physical property as shown by the books of the corporation or by a statement of a certified public accountant issued within one year, which statement may be based upon the books of the corporation, less the amount of any reserves for depreciation, retirement, or amortization of such physical property (physical property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary corporation).

(4) Has had earnings including earnings of subsidiaries mentioned in paragraph (3), available for interest payments, before deduction of state and federal taxes imposed on or measured by income or profits, during four of the five most recent fiscal years and during the most recent fiscal year equal to at lease twice the existing annual interest charges on the corporation's total funded debt during those respective fiscal years.

(b) Bonds or debentures of telephone companies shall be of an issue originally amounting to at least one million dollars ($1,000,000) and, if bonds, secured by a mortgage on substantially all of the physical property of the company and, if debentures, be issued by a company substantially all of whose physical property is free of

mortgage and shall carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a company subject to the following:

(1) The company has during its last fiscal year had gross revenues of at least seven million five hundred thousand dollars ($7,500,000), more than 50 percent of which was derived from owned properties used in furnishing telephone and other communication services and at least 80 percent of its gross revenues from all or any of the public utility businesses enumerated in this section.

(2) The funded debt does not exceed two-thirds of the value of its physical property as shown by the books of the corporation or by a statement of a certified public accountant issued within one year, which statement may be based upon the books of the corporation, less the amount of any reserves shown on the statement for depreciation, retirement, or amortization as the physical property. Physical property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary corporation.

(3) For four of the five most recent fiscal years and for the last fiscal year has had earnings, including earnings of subsidiaries mentioned in paragraph (2), available for the payment of interest charges, before deduction of state and federal taxes imposed on or measured by income or profits, at least equal to twice the interest charges on the company's total funded debt during such respective fiscal years.

(c) Water company bonds or debentures shall be of an issue originally amounting to at least one million dollars ($1,000,000) and if bonds, secured by a first mortgage on the company's property, and if debentures, issued by a company substantially all of whose property is free of mortgage and carry a covenant to be secured equally with any mortgage indebtedness, except a purchase money mortgage, subsequently issued, and both bonds and debentures shall be issued by a company subject to the following:

(1) The company is the supplier of substantially all water for domestic use in a community or communities having a population of not less than 25,000.

(2) The funded debt of the company does not exceed two-thirds of the value of its physical property as shown by the published statement of the company for its next preceding fiscal period, less the amount of any reserves shown for depreciation, retirement, or amortization of such physical property. Physical property of a corporation shall include the physical property of a subsidiary corporation if the corporation owns not less than 90 percent of the outstanding voting shares of the subsidiary corporation.

(3) For four out of the five most recent fiscal year and for the most recent fiscal year has had earnings including those of subsidiaries mentioned in paragraph (2) available for the payment of interest

charges, before deduction of state and federal taxes imposed on or measured by income or profits, of at least one and one-half times the interest charges on the company's total funded debt during those respective fiscal years.

7275. As used in this article, "funded debt" means all interest-bearing indebtedness of a corporation not maturing within one year of the date it was incurred.

SEC. 14.5. Section 7453 of the Financial Code is amended to read:

7453. (a) An association may make, invest in, sell, purchase, participate in, or otherwise deal in secured or unsecured loans for agricultural, business, commercial, or corporate purposes, provided that the total investment in such loans does not exceed 10 percent of the assets of the association.

(b) An association may invest in, sell, purchase, participate in, or otherwise deal in loans specified in subdivision (a) which are originated by any savings association, federal association, holding company of a federally insured savings association, commercial bank, bank holding company, subsidiary of a bank holding company, or insurance company, provided that the total investment in such loans shall not exceed 10 percent of the association's assets.

(c) For the purposes of this section, the term "loan" includes, but is not limited to, any corporate debt security.

(d) No association shall make, invest in, purchase, or participate in a loan for agricultural, business, commercial, or corporate purposes to one borrower, except as the commissioner may approve in writing, if the sum of the amount of the association's interest in the loan and the total balance of the association's interest in all outstanding loans for those purposes owed to the association by that borrower exceed the greater of (1) the amount a national bank having an identical total capital and surplus could lend to one borrower, or (2) the amount a commercial bank, as defined in Section 105. having an identical total shareholders' equity, capital notes, and debentures, could lend to one borrower. This subdivision shall not apply to loans (1) secured by real property, (2) sold without recourse, (3) on the security of the association's deposit accounts, or (4) of unsecured day funds, including federal funds or similar unsecured loans.

(e) As used in this section the term "one borrower" means:

(1) Any person that is, or upon the making of a loan will become, an obligor on the loans. However, a guarantor shall not be included within the meaning of "obligor" if, in connection with a loan the association has determined, in good faith, that the primary obligor has qualified for the loan irrespective of the existence of the guarantor. In the case of a loan that has been assumed by a third party with the consent of the association, the former debtor and any guarantor shall not be deemed to be an "obligor."

(2) Nominees of the obligor.

(3) All persons, trusts, syndicates, partnerships and corporations of which the obligor is a nominee, a beneficiary, a member, a general

partner, a limited partner owning an interest of 10 percent or more based on the value of his or her capital contribution, or a record or beneficial stockholder owning 10 percent or more of the capital stock.

(4) If the obligor is a trust, syndicate, partnership or corporation, all trusts, syndicates, partnerships and corporations of which any beneficiary, member, general partner, limited partner owning an interest of 10 percent or more based on the value of his or her capital contribution, or record or beneficial stockholder owning 10 percent or more of the capital stock, is also a beneficiary, member, general partner, limited partner owning an interest of 10 percent or more based on the value of his or her capital contribution, or record or beneficial stockholder owning 10 percent or more of the capital stock of the obligor.

(f) This section does not apply to loans to an association's service corporation or to a wholly owned subsidiary.

SEC. 15. Section 7500 of the Financial Code is amended to read:

7500. (a) Subject to limitations, if any, within this chapter, an association may originate, invest in, sell, purchase, service, participate, or otherwise deal in (including brokerage or warehousing) loans, including construction loans, made on the security of residential or nonresidential real property, or interests in these loans.

(b) No investment in real property or a real estate loan shall be made by an association until one or more written appraisal reports, prepared at the request of an association or its agent, have been submitted to the association by a person or persons meeting the qualification standards for an appraiser as set forth in the commissioner's regulations. No commitment to disburse shall be made by the association until the person or persons have been duly appointed and qualified as appraisers by the association. Such a person or persons shall have made a physical inspection and submitted to the association a fully documented appraisal of the real estate that would secure the loan or constitute the investment, or, in the case of a purchased loan, the person or persons have reviewed and approved an appraisal report in support of the loan. If the balance of any purchased loan is one million dollars ($1,000,000) or more, the person or persons reviewing and approving the appraisal report shall have inspected the real estate. Each appraisal report submitted to an association pursuant to this subdivision shall be signed and shall include the tax identification number, social security number, or other form of verifiable identification of the person or persons signing the appraisal report.

(c) For the purpose of determining appraised value, unimproved property without offsite improvements shall be evaluated as though offsite improvements have been installed if a subdivision map has been recorded and a bond or other instrument guaranteeing installation of the offsite improvements has been accepted by the governing authorities in connection with the recording of the

subdivision map.

SEC. 16. Section 7509 is added to the Financial Code, to read:

7509. (a) At the time of origination, a real estate loan may not exceed 100 percent of the market value of security property. An association shall, by vote of its board of directors, establish maximum loan-to-value-ratios for loans made on the security of real estate, and the resolution adopting those ratios shall be included in the minutes of the directors' meeting. Home loans, as defined in Section 7504, made on the combined security of real estate and savings accounts may be made in excess of the maximum loan-to-value-ratios adopted pursuant to this subdivision with the excess secured by the savings account.

However, for loans orginated in excess of 90 percent of the initial appraised value of the security property, the savings account shall consist only of funds belonging to the borrower, the borrower's family, or the borrower's employer, and the loans shall not exceed the appraised value of the real estate.

(b) With respect to home loans originated or refinanced in excess of 90 percent of the appraised value of the security property, that part of the unpaid balance that exceeds 80 percent of the property value shall be insured or guaranteed by a mortgage insurance company that the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer."

(c) With respect to all other loans on the security of real estate originated in excess of 90 percent of the appraised value of the security property, an association's board of directors shall approve each such loan prior to its origination and that approval shall be recorded in the minutes of its meeting.

(d) In determining compliance with maximum loan-to-value-ratio limitations for real estate loans, at the time of making a loan an association shall add together the unpaid amount, or in the case of a line-of-credit loan the approved credit limit, of all recorded loans secured by prior mortgages, liens, or other encumbrances on the security property that would have priority over the association's lien, and shall not make such a loan unless the total amount of those loans (including the one to be made but excluding loans that will be paid off out of the proceeds of the new loan) does not exceed the applicable maximum loan-to-value-ratio limitations prescribed in this subdivision. In determining the value of the real estate security, an association shall use the current appraised value of the security property, which may include any expected value of improvements to be financed.

(e) "Value" for a real estate loan means the market value of the real estate.

SEC. 17. Article 11 (commencing with Section 7800) is added to Chapter 6 of Division 2 of the Financial Code, to read:

Article 11. Hazard Insurance

7800. Subject to the provisions of Section 2955.5 of the Civil Code, the board of directors of every association and affiliate or service corporation of an association shall establish standards for the maintenance of hazard insurance which are considered necessary to protect the institution's interest in real estate security for its loans. The standards may include establishment of criteria based on such factors as recognized financial ratings of insurers and coverage forms, but those standards may not be based on the insurer's corporate structure. Subject to compliance with these standards, an association, an affiliate or service corporation of an association shall permit a borrower to have reasonable freedom of choice in selecting the insurer to provide hazard insurance coverage on the real estate security.

SEC. 18. Section 8154 of the Financial Code is amended to read:

8154. (a) Whenever, in the judgment of the commissioner, the condition of any association, savings and loan holding company, or any of their subsidiaries renders it necessary or expedient to make an extra examination or audit or to devote any extraordinary attention to its affairs, the commissioner shall do so or may appoint a certified public accountant or any expert to do so.

(b) The association, savings and loan holding company, or subsidiary specially examined under this section may be required to pay the actual expenses incurred by the commissioner for all extra services rendered by the commissioner, by the appointed accountant, or any expert.

SEC. 19. Section 8159 of the Financial Code is amended to read:

8159. For each department examination or appraisal made outside this state, a reasonable fee and the actual traveling expenses incurred shall be paid to the department by the association, savings and loan holding company, or subsidiary so examined.

SEC. 20. Section 8200 of the Financial Code is amended to read:

8200. (a) If the commissioner, as a result of any examination or from any report, shall find that any association, savings and loan holding company, or any of its subsidiaries, is violating or has violated the provisions of this division or the laws of this state or of the United States or any lawful order or regulation or is engaging or has engaged in an unsafe or unsound business practice, the commissioner may, by a formal written order delivered to the home office of the association or person named in the order, state any alleged violation or practice and state the facts alleged in support of the violation or practice, and shall order discontinuance of the violation or practice and order conformance with all requirements of law.

(b) The order shall specify an effective date, which may be immediate or may be at a later date, which shall remain in effect until withdrawn by the commissioner or until terminated by a court order.

(c) Any association or person affected by an order of the

commissioner shall have the right to apply within 10 days after the delivery of the order to a court having jurisdiction for an immediate hearing and may request a stay of the order until the hearing has been completed. The hearing shall be held as provided in a notice to the commissioner by the court.

(d) The commissioner may, on or after the effective date of the order, apply for enforcement of the order to the superior court in the county in which the home office of the association or the person is located. The order shall be enforced ex parte and without notice by the court. The proceedings shall be given precedence over other cases pending in court, and shall in every way be expedited.

(e) Whether upon application by the commissioner or by the association or person, the court shall have power to and shall adjudicate the question and shall enter and enforce the proper order or orders.

SEC. 21. Section 8225 of the Financial Code is amended to read:

8225. (a) If the commissioner, believes that the public interest may be served by the appointment of a conservator, and if the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, (3) is in violation of an order or injunction, as authorized by this division, (4) or refuses to submit its books, papers, and affairs to the inspection of the commissioner, the commissioner may, ex parte and without notice, appoint a conservator for the association.

(b) The conservator may be the commissioner, deputy commissioner or any other person.

(c) The conservator shall, upon appointment, immediately take possession of the books, records, and assets of every description of the association and shall take any further action as he or she may deem necessary to conserve the assets of the association pending further disposition of its business.

(d) Within six months of the date of appointment of the conservator, or within 12 months if the commissioner extends the six months' period, the association shall be returned to its board of directors to be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as provided in Section 8250.

(e) If the commissioner or a department employee is appointed conservator no additional compensation shall be paid, but if another person is appointed then the compensation of the conservator, as determined by the commissioner, shall be paid by the association.

(f) Any expenses of such conservatorship shall be paid out of the assets of the association and shall be a lien against association assets prior to any other lien.

SEC. 21.5. Section 8230 is added to the Financial Code, to read:

8230. Whenever a conservator has taken possession of the property and business of any association pursuant to this article, that association, within 10 days after the taking, if it deems itself

aggrieved thereby, may apply to the superior court in the county in which the home office of the association is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after hearing and determination of the facts, may dismiss the application or enjoin the commissioner from further proceedings and direct the commissioner to surrender the property and business to that association.

SEC. 22. Section 8250 of the Financial Code is amended to read:

8250. (a) If the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, or (3) is in violation of an order or injunction issued pursuant to this division, the commissioner may appoint a receiver for the association.

(b) The receiver may be the commissioner, deputy commissioner or any other person.

(c) The receiver shall, upon appointment, immediately take possession of the books, records, and assets of every description of the association.

SEC. 23. Section 8251 of the Financial Code is amended to read:

8251. (a) In the case of an insured association, the appointment by the commissioner of a receiver under this article shall constitute an official determination of a public authority of this state pursuant to which a receiver is appointed for the purpose of liquidation as contemplated by and within the meaning of subdivision (d) of Section 401 of the National Housing Act of 1934 (12 U.S.C. Sec. 1701 et seq.), as amended.

(b) A receiver shall have all the powers and authority of a conservator plus the power to liquidate, and shall have any other powers and authority that are expressed in an order of a court.

SEC. 24. Section 8254 is added to the Financial Code, to read:

8254. Whenever a receiver has taken possession of the property and business of any association pursuant to this article, that association, within 10 days after the taking, if it deems itself aggrieved thereby, may apply to the superior court in the county in which the home office of the association is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined and after hearing and determination of the facts, may dismiss the application or enjoin the commissioner from further proceedings and direct the commissioner to surrender the property and business to that association.

CHAPTER 719

An act to add and repeal Section 6982 of the Health and Safety Code, relating to waste water.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 30, 1988]

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

SECTION 1. Section 6982 is added to the Health and Safety Code, to read:

6982. (a) Notwithstanding Section 6952, the West Bay Sanitary District may use the procedures in this chapter to provide alternative or innovative waste water technologies in the district's jurisdiction.

(b) The determination of a public health officer pursuant to Section 6955.1 shall include written findings, adopted by the district board of directors, regarding the existing or potential public health hazard.

(c) If the district uses the procedures in this chapter to provide alternative or innovative waste water technologies pursuant to this section, the district shall submit to the Legislature, by January 1, 1991, a report on the effectiveness of alternative waste water technologies and the procedures in this chapter, recommend changes, if any in the requirements, and make recommendations as to the desirability of continuing the requirements after January 1, 1991.

(d) "Alternative or innovative waste water technologies" means either (1) an onsite waste water disposal system, as defined in Section 6952, or (2) such a system in conjunction with communitywide sewer or sewage systems, if one or more of the components of the system is located on or in close proximity to the real property and employs innovative or alternative waste water technologies, including, but not limited to, grinder pump pressure sewer systems, septic tank effluent pump pressure sewer systems, vacuum sewer systems, or small-diameter gravity septic tank systems.

(e) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

CHAPTER 720

An act to amend Section 13220 of the Health and Safety Code, relating to fire safety.

[Approved by Governor August 29, 1988 Filed with Secretary of State August 30, 1988]

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

SECTION 1. Section 13220 of the Health and Safety Code is amended to read:

13220. (a) The owner or operator of any privately owned high-rise structure, as defined in Section 13210, any office building two stories or more in height, or any hotel or motel, shall provide to persons entering those buildings specific emergency procedures to be followed in the event of fire, including procedures for handicapped and nonambulatory persons.

(b) In the case of hotels and motels, the emergency procedure information shall be posted in a conspicuous place in every room available for rental in the hotel or motel, or, at the option of the hotel or motel operator, it shall be provided through the use of brochures, pamphlets, video tapes, or other means pursuant to regulations adopted by the State Fire Marshal.

(c) In the case of high-rise structures or office buildings, the emergency procedure information shall be made available in an area of the structure which is easily accessible to all persons entering the structure, designated pursuant to the regulations of the State Fire Marshal.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 721

An act to repeal and add Chapter 4 (commencing with Section 15380) of Part 6.7 of Division 3 of Title 2 of the Government Code, relating to economic development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 30, 1988]

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

SECTION 1. Chapter 4 (commencing with Section 15380) of Part 6.7 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. Chapter 4 (commencing with Section 15380) is added to Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. CALIFORNIA SMALL BUSINESS DEVELOPMENT CENTER PROGRAM

15380. The Legislature finds and declares that:

(a) Small businesses are a vital part of the state's economic well-being. There is documented evidence that small businesses contribute to increased productivity and innovation.

(b) Unemployment is a statewide problem and the prudent establishment and expansion of small businesses can expand employment opportunities.

(c) In order to maintain a healthy state economy and to aid economically depressed communities, entrepreneurship among small businesses must be stimulated.

(d) New technological development when transferred to small businesses can lead to new employment opportunities and a healthy and stable economy.

15381. It is the intent of the Legislature to stimulate the economy and promote new job opportunities by assisting in the development of small businesses by providing a comprehensive network of services to these businesses. These services shall include management assistance, business education and training, capital formation assistance, economic and business data dissemination, and technical assistance. It is further the intent of the Legislature to provide for the transfer of new technological development to the small business sector by linking research and development institutions to small business owners.

It is the intent of the Legislature that the network of services developed pursuant to this chapter be accessible to small businesses in the state by means of, among other things, a computerized data base. The Legislature intends for this data base to be an inventory of available services to small businesses.

It is the intent of the Legislature to provide assistance to California's small businesses by management and staff experienced and knowledgeable in small business matters, which skills are not always readily available within the civil service system.

It is the intent of the Legislature that the Small Business Development Center Program goals include the following:

(a) Seek out appropriate sources of federal, state, and local public and private funding to support local service centers.

(b) Promote and render client services available through the SBDC's to special emphasis groups in the community.

15382. For the purposes of this chapter:

(a) "SBDC" means a Small Business Development Center which is the local service delivery unit.

(b) "SBDC Plan" means the plan prepared by the Department of Commerce.

(c) "Department" means the Department of Commerce.

15383. (a) There is hereby created within the Department of Commerce, in the Office of Small Business, a California Small Business Development Center Program which shall operate according to a statewide plan developed by the department.

The plan shall describe the objectives of the program, the purpose of the centers, the geographical distribution of the centers based on need, the services to be provided to small businesses, the timetable for the operation of the center, how services will be delivered to the small business community, budget and cost considerations, and public and private financial support.

(b) The plan shall also describe how the SBDC will provide at least all of the following:

(1) Referrals and dissemination of information regarding such topics as legal requirements for starting a business, public and private financing opportunities, local business development profiles, site inventory, and listing of professional service providers.

(2) Specialized one-on-one counseling and technical assistance in the areas of business planning and management, financing, and marketing for small business with the greatest potential for job retention and creation.

(3) Regional workshops and conferences in cooperation with the department and local "how to" workshops, courses and seminars with local cosponsors such as community colleges, federal Minority Business Development Agency grantees, federal Small Business Administration, and Chambers of Commerce.

(4) Coordination with employee training and placement programs.

(5) Services whereby small businesses can be linked to research and development institutions for the purposes of transferring new technology to a new or expanding small business.

15384. (a) The department shall establish SBDCs according to the SBDC Plan.

(b) The three designated SBDCs which are funded pursuant to Section 15373.2 shall be subject to the statewide SBDC plan as described in this chapter.

(c) The services to be provided by the SBDC may be performed by independent contractors, private nonprofit corporations, public institutions, and local governments. Contracts shall be awarded on a competitive basis by a request for proposal process. Each SBDC shall include in its organization, but is not limited to, the following components:

(1) Advisory board or board of directors comprised of six or more members who will establish general policies and market the program. The board shall consist of at least one representative from each of the following groups: small business, finance, Chambers of Commerce, education, and government.

(2) Staff of the SBDC shall include a least one full-time professional business counselor and one full-time administrative assistant.

(3) Participation agreements with private individuals and firms to provide professional services either pro bono or at a reduced fee. Examples of participants include accountants, loan packagers, attorneys, business counselors, and economic development specialists.

(4) Cooperative agreements with private nonprofit corporations, public institutions, and local jurisdictions who shall coordinate services such as information dissemination, counseling and technical assistance, job training and placement, and special projects such as "how to" workshops for individuals starting businesses, technology transfer, government procurement, innovative research, and international trade.

Examples of participants include Minority Business Development Agency (MBDA) grantees, Regional Small Business Development Corporations, Small Business Administration, Service Core of Retired Executives (SCORE), California community colleges and State Universities, Small Business Institutes (SBI), local job training and placement agencies, California Office of Small and Minority Business, local economic development programs, redevelopment agencies, and coordinators of state enterprise zones, employment incentive areas and main street projects, and projects of the California Certified Development Corporation.

15385. (a) SBDC grants shall be awarded by the department on a three-year cycle. All grantees shall be required to provide a minimum cash match of the total grant as specified in the SBDC plan. The percentage of cash match required shall be a minimum of 5 percent in the first year, not to exceed 25 percent in the third year.

(b) Extension of grants to the second and third years shall be based on the SBDC successfully meeting performance milestones during the previous funded year, as outlined in their grant contract.

(c) Grantees may be eligible to compete for a second three-year term. However, those grantees shall be required to provide a minimum of 15 percent cash match of the total grant amount each year during the second grant cycle.

(d) In order to reduce cost to the state, the department may pursue funds from the federal Small Business Administration SBDC program.

(e) SBDCs may institute a policy for charging reasonable fees for services.

(f) SBDCs shall be required to submit quarterly progress reports to the department.

(g) The department may review and approve the expenditures of funds to ensure conformity with the provisions and intent of this chapter.

15386. The program shall have a director, who shall be appointed by the Governor upon recommendation by the Director of Commerce. The director shall hold office at the pleasure of the Governor, and shall receive a salary as shall be fixed by the Director of Commerce with the approval of the Department of Personnel Administration.

15387. (a) There is hereby established the California Small Business Development Center Fund, moneys for which shall be appropriated in the annual Budget Act.

(b) In order to carry out the purposes of this chapter, the Office of Small Business of the department may establish two personnel years to support two positions for one year each during the 1988–89 fiscal year.

(c) For fiscal year 1988–89, the Department of Commerce shall utilize grants from the Economic Development Grant and Loan Fund to fund three existing urban SBDCs and to establish one new center. The total amount utilized shall not exceed four hundred thousand dollars ($400,000).

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

In order to promptly proceed with implementation of the California Small Business Development Center Program to stimulate the small business community which will benefit the state's economy and create new job opportunities, it is necessary that this act take effect immediately.

CHAPTER 722

An act to amend Sections 10706, 16512, 18966, 18967, 18969, and 18970 of, and to add Sections 10706.1 and 18968.5 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor August 29, 1988. Filed with Secretary of State August 30, 1988.]

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

SECTION 1. Section 10706 of the Welfare and Institutions Code is amended to read:

10706. The Committee on Child Abuse Prevention of the State Social Services Advisory Board shall act as an advisory committee to the Office of Child Abuse Prevention established pursuant to Article 3 (commencing with Section 18952) of Chapter 11 of Part 6

concerning the performance of that office's duties and responsibilities, and to the department, the Health and Welfare Agency, and the Governor concerning the matter of child abuse.

SEC. 2. Section 10706.1 is added to the Welfare and Institutions Code, to read:

10706.1. The Committee on Child Abuse Prevention of the State Social Services Advisory Board shall make recommendations to the State Department of Social Services for the expenditure of State Children's Trust Fund moneys to be used for child abuse and neglect projects as described in Section 18969.

SEC. 3. Section 16512 of the Welfare and Institutions Code is amended to read:

16512. (a) The department shall report every third year, commencing in 1989, to the Legislature on the operation and progress of the child welfare services program.

(b) The report shall include both of the following:

(1) The number of reported child abuse cases, on an aggregate basis and on a county-by-county basis, and by types of abuse.

(2) The disposition of cases reported, on an aggregate basis and on a county-by-county basis.

SEC. 4. Section 18966 of the Welfare and Institutions Code is amended to read:

18966. When a county board of supervisors designates a commission pursuant to Section 18965, the board of supervisors shall establish a county children's trust fund. The children's trust fund shall consist of the fees for birth certificates, collected pursuant to Section 10605 of the Health and Safety Code, grants, gifts, or bequests from private sources to be used for child abuse and neglect prevention and intervention programs, any funds appropriated by local governmental entities to the trust fund, and any funds appropriated to the county for the trust fund by the Legislature. The local registrar or county recorder may, however, retain a percentage, not to exceed 10 percent, of the surcharge collectible pursuant to subdivision (b) of Section 10605 of the Health and Safety Code, in order to defray the costs of collection.

SEC. 5. Section 18967 of the Welfare and Institutions Code is amended to read:

18967. Money in the children's trust fund of each county shall be used to fund child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare. The designated commission shall establish criteria for determining those programs which shall receive funding. The commission shall accept all program proposals that meet criteria set by the commission, shall prioritize these proposals, and shall make recommendations to the board of supervisors as to those proposals which the commission feels should receive funding. The board of supervisors shall make the final decision as to which programs shall be funded. The county shall use no more than 5 percent of the

amounts in the trust fund for administrative costs.

SEC. 6. Section 18968.5 is added to the Welfare and Institutions Code, to read:

18968.5. Amounts collected for the surcharge upon birth certificates pursuant to Section 10605 of the Health and Safety Code that would have been transferred by the local registrar or county recorder to the Treasurer for deposit in the State Children's Trust Fund shall, instead, revert to the county children's trust fund when the board of supervisors designates a commission to carry out the purposes of this article, pursuant to Section 18965.

SEC. 7. Section 18969 of the Welfare and Institutions Code is amended to read:

18969. (a) There is hereby created in the State Treasury a fund which shall be known as the State Children's Trust Fund. The fund shall consist of funds received from a county pursuant to Section 18968, funds collected by the state and transferred to the fund pursuant to subdivision (b) of Section 10605 of the Health and Safety Code and Article 6 (commencing with Section 18500) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, grants, gifts, or bequests made to the state from private sources to be used for innovative and distinctive child abuse and neglect prevention and intervention projects and money appropriated to the fund for this purpose by the Legislature. The State Registrar may retain a percentage of the fees collected pursuant to Section 10605 of the Health and Safety Code, not to exceed 10 percent, in order to defray the costs of collection. The Franchise Tax Board may retain up to 5 percent of the taxpayer contributions to the fund made pursuant to Article 6 (commencing with Section 18500) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to reimburse the board for the costs of administering that article.

(b) Notwithstanding Section 13340 of the Government Code, money in the State Children's Trust Fund is continuously appropriated without regard to fiscal years to the State Department of Social Services for the purpose of funding child abuse and neglect prevention and intervention programs. The department may not supplant any federal, state, or county funds with any funds made available through the State Children's Trust Fund. The department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

(c) The department may establish positions as needed for the purpose of implementing and administering child abuse and neglect prevention and intervention programs that are funded by the State Children's Trust Fund. However, the department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

(d) No children's trust fund money shall be used to supplant state General Fund money for any purpose.

(e) It is the intent of the Legislature that the State Children's Trust Fund provide for all of the following:

(1) The development of a public-private partnership by encouraging consistent outreach to the private foundation and corporate community.

(2) Funds for large-scale dissemination of information which will promote public awareness regarding the nature and incidence of child abuse and the availability of services for intervention. These public awareness activities shall include, but not be limited to, the production of public service announcements, well designed posters, pamphlets, booklets, videos, and other media tools.

(3) Research and demonstration projects which explore the nature and incidence and the development of long-term solutions to the problem of child abuse.

(4) The development of a mechanism to provide ongoing public awareness through activities which will promote the charitable tax deduction for the trust fund and seek continued contributions. These activities may include convening a philanthropic roundtable, developing literature for use by the State Bar for dissemination, and whatever other activities are deemed necessary and appropriate to promote the trust fund.

SEC. 8. Section 18970 of the Welfare and Institutions Code is amended to read:

18970. (a) The department shall expend funds appropriated to it pursuant to Section 18969 for innovative local child abuse and neglect prevention and intervention programs operated by private nonprofit organizations or public institutions of higher education with recognized expertise in fields related to child welfare. These projects shall be joined to formal evaluation components.

(b) These funds may also be used for evaluation, research, or dissemination of information concerning existing program models for the purpose of replication of successful models.

(c) The Office of Child Abuse Prevention and those local commissions designated by the county boards of supervisors shall collect and publish the following data relevant to the state and local children's trust funds:

(1) Descriptions of the types of programs and services funded by local and state children's trust funds and the target populations benefiting from these programs.

(2) The amount in each portion of the state and local trust fund as of June 30 each year, beginning June 30, 1987, as well as the amount disbursed in the preceding fiscal year.

(e) (1) Funds shall be expended from the moneys appropriated to the State Children's Trust Fund pursuant to Section 18969 of this code and Section 10585 of the Health and Safety Code to enable the Office of Child Abuse Prevention to annually collect and publish the data specified in subdivision (c).

(2) Funds may be expended from local children's trust funds established pursuant to Section 18966 to enable those local commissions designated by the county boards of supervisors in accordance with Section 18966 to annually collect and publish the

data specified in subdivision (c).

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 723

An act to add and repeal Chapter 1 (commencing with Section 100) of Part 1 of Division 2 of the Welfare and Institutions Code, relating to legal services for minors, and making an appropriation therefor.

I am deletng the $75,000 appropriation contained in Section 6 of Assembly Bill No. 4445

I believe that fundng for this proposed program should be considered during the budget process together with all other programs relatng to abused children. While $75,000 is not a large sum of money, it is likely that this program will cost over $1 million annually, if fully funded.

Thus, after reviewng this legislation, I have concluded that its merits do not sufficiently outweight the need this year for funding top priority programs and continuing a prudent reserve for econimic uncertainties.

I would, however, consider fundng the provisions of this bill durng the budget process for Fiscal Year 1989–90. It is appropriate to review the relative merits of this program in comparison to all other fundng projects. The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existng, that have the most merit

With this deletion, I approve Assembly Bill No 4445. George Deukmejian

[Approved by Governor August 30, 1988. Filed with Secretary of State August 30, 1988.]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Studies have indicated correlations between child abuse and deviant behavior among juveniles and adults who have committed violent crimes.

(b) A body of research now exists which begins to document the causal relationship between child abuse, low self-esteem and the later potential of becoming abusers as adults.

(c) There is a well-recognized generational cycle of abuse and neglect in which abused children are predisposed to abusive behavior toward their own children, who in turn abuse and neglect their children.

(d) The 1986 Judicial Council of California Report indicates that juvenile dependency filings under Section 300 of the Welfare and Institutions Code rose dramatically for the second consecutive year

in 1984–85. The filings increased by 4,400 cases, or 16 percent over 1983–84 filings. Compared to earlier statistics, juvenile dependency filings rose a startling 139 percent, with an increase from 14,092 cases in 1974–75 to 33,731 cases in 1984–85.

(e) Dependent children are under the direct control of the juvenile division of the superior court. The judiciary is aware that resources for abused children in their communities are often used inefficiently or are otherwise lacking.

(f) The public reasonably expects that courts are ultimately in control of what happens to the lives and liberties of the children and families who come to the attention of public authorities.

(g) Recent legislation has placed an increasing demand on the courts and social services agencies for timely and thorough provision of family reunification services for dependents of the court. There is a lack of adequate services to prevent children from being placed in foster care and to facilitate the reunification of children in foster care with their families.

SEC. 2. The Legislature further finds and declares all of the following:

(a) The immediate costs to society of child abuse and neglect are staggering. Initial costs for child protective services for each case opened are estimated to average ten thousand dollars ($10,000). Temporary foster care costs five thousand dollars ($5,000) to fifteen thousand dollars ($15,000) a year.

(b) The long-range costs of the failure to prevent, intervene, and treat child abuse are beyond calculation. Children who have no permanent home suffer a great loss in their human potential.

(c) There are currently 38,000 children in foster care in California The longer a child is in foster care, the less likely it is that he or she will ever return to his or her natural family.

(d) Foster care and institutional care are far more expensive to the state than the cost of maintaining a child in his or her natural environment with support services.

(e) Recent testimony presented to the California Legislature indicates: The enactment of Chapter 978 of the Statutes of 1982 required that the courts, as part of the case review process, adopt a permanent placement plan for any child remaining in foster care for 18 months or more. First priority was given to adoption, followed by guardianship and then long-term foster care. Chapter 978 also requires increased court reporting, more court appearances and more contacts with parents and children. Testimony further showed that there have been a number of problems in the implementation of Chapter 978, stemming from a lack of resources and personnel. Because of this limited social service and judicial personnel, there is inadequate attention paid to many cases. The increased ratios of cases to judges, social workers, and attorneys decreases the time spent on each child.

(f) Despite the goals of Chapter 978 of the Statutes of 1982, foster care placements continue to increase

SEC. 3. The Legislature also finds all of the following:

(a) The intelligent and careful use of volunteer energies is a great untapped resource. Research shows that the use of volunteers to provide support to high risk families is more effective than treatment by professionals alone. The key to solving our immense social problems is the establishment of an effective working partnership between the courts, public agencies, private foundations and agencies, and volunteers.

(b) Volunteers ensure that services to children are multidimensional through the development of networks where services are oriented toward the child rather than the abusers. The assurance of the presence of a constant, caring person in a child's life is critical and is often missing in the child neglect and abuse intervention process. Volunteer advocates act as role models ensuring that the abused or neglected child realizes that some adults can be trusted.

(c) As a model for legislation, the use of public-private partnership and volunteerism has proven to be a cost-effective and sound problem-solving tool. The California Commission on Crime Control and Violence Prevention has found this model to have far reaching impact.

(d) The National Council of Juvenile and Family Court Judges, consisting of over 2,000 judges and court executives, reported in 1986 that "Court-Appointed Special Advocates (CASAs) should be utilized by the court at the earliest stage of the court process, where necessary, to communicate the best interests of an abused or neglected child." CASA volunteers seek to reunify the dependent child and the family whenever appropriate and to provide the court with recommendations for placing the dependent child with his or her natural family or other appropriate relatives.

SEC. 4. It is the intent of the Legislature to do all of the following:

(a) Promote the exercise of responsible citizenship so as to enable individuals to become personally involved in the lives and best interests of abused and neglected children made dependents of superior courts in the state.

(b) Provide startup funds to counties for the purpose of establishing Court-Appointed Special Advocate (CASA) programs to be administered by the Judicial Council.

(c) Address child abuse prevention issues through matching a high-risk population, abused children, with consistent, caring, and responsible CASAs who will then encourage and facilitate provision of treatment and hasten permanent placement.

(d) Provide the state courts with timely, informative, thorough, and multidimensional reports outlining their recommendations as to the best interests of a dependent child.

(e) Encourage the development of CASA-type programs throughout the state.

SEC. 5. Chapter 1 (commencing with Section 100) is added to Part 1 of Division 2 of the Welfare and Institutions Code, to read:

CHAPTER 1. COURT-APPOINTED SPECIAL ADVOCATES

100. The Judicial Council shall establish a planning and advisory group consisting of appropriate professional and program specialists to recommend on the development of program guidelines and funding procedures consistent with this chapter. At a minimum, the council shall adopt program guidelines consistent with the guidelines established by the National Court Appointed Special Advocate Association, and with California law; the council may require additional or more stringent standards. State funding shall be contingent on a program adopting and adhering to the program guidelines adopted by the council.

The program guidelines adopted by the council shall be adopted and incorporated into local rules of court by each participating superior court as a prerequisite to funding pursuant to this chapter.

The council shall adopt program guidelines and criteria for funding which encourage multicounty CASA programs where appropriate, and shall in no case provide for funding more than one program per county.

The council shall establish in a timely fashion a request-for-proposal process to establish, maintain, or expand local CASA programs, upon application of a board of supervisors, and require local matching funds or in-kind funds equal to the proposal request. The maximum state grant per county program per year shall not exceed twenty thousand dollars ($20,000).

101. As used in this chapter, the following definitions shall apply:

(a) "Adult" means a person 18 years of age or older.

(b) "Child or minor" means a person under 18 years of age.

(c) "CASA" means a Court-Appointed Special Advocate. "CASA" also refers to a Court Designated Child Advocate in programs which have utilized that title. A CASA has the duties and responsibilities described in this chapter and shall be trained by and function under the auspices of a court-appointed special advocate program as set forth in this chapter.

(d) "Court" means the superior court, including the juvenile court.

(e) "Dependent" means a child described in Section 300 of the Welfare and Institutions Code.

102. (a) Each CASA program shall, if feasible, be staffed by a minimum of one paid administrator. The staff shall be directly accountable to the presiding juvenile court judge and the CASA program board of directors, as applicable.

(b) The program shall provide for volunteers to serve as CASAs. A CASA may be appointed in juvenile dependency proceedings under Section 300 and in actions to terminate parental rights to custody and control, as deemed appropriate by the juvenile or other superior court judge hearing the matter.

(c) Each CASA shall serve at the pleasure of the court having

jurisdiction over the proceedings in which a CASA has been appointed. A CASA shall do all of the following:

(1) Provide independent, factual information to the court regarding the cases to which he or she is appointed.

(2) Represent the best interests of the children involved, and consider the best interests of the family, in the cases to which he or she is appointed.

(3) At the request of the judge, monitor cases to which he or she has been appointed to assure that the court's orders have been fulfilled.

(d) The Judicial Council, through its rules and regulations, shall require an initial and ongoing training program consistent with this chapter to all persons acting as a CASA, including, but not limited to, each of the following:

(1) Dynamics of child abuse and neglect.

(2) Court structure, including juvenile court laws regarding dependency.

(3) Social service systems.

(4) Child development.

(5) Interviewing techniques.

(6) Report writing.

(7) Roles and responsibilities of a CASA.

(8) Rules of evidence and discovery procedures.

(9) Problems associated with verifying reports.

(e) The Judicial Council, through its CASA Advisory Committee, shall adopt guidelines for the screening of CASA volunteers, which shall include personal interviews, reference checks, checks for records of sex offenses and other criminal records, information from the Department of Motor Vehicles, and other information as the Judicial Council deems appropriate.

103. (a) Persons acting as a CASA shall be individuals who have demonstrated an interest in children and their welfare. Each CASA shall participate in a training course conducted under the rules and regulations adopted by the Judicial Council and in ongoing training and supervision throughout his or her involvement in the program. Each CASA shall be evaluated before and after initial training to determine his or her fitness for these responsibilities. Ongoing training shall be provided at least monthly.

(b) Each CASA shall commit a minimum of one year of service to a child until a permanent placement is achieved for the child or until relieved by the court, whichever is first. At the end of each year of service, the CASA, with the approval of the court, may recommit for an additional year.

(c) A CASA shall have no associations which create a conflict of interest with his or her duties as a CASA.

(d) An adult otherwise qualified to act as a CASA shall not be discriminated against based upon sex, socioeconomic, religious, racial, ethnic, or age factors.

(e) Each CASA is an officer of the court, with the relevant rights

and responsibilities that pertain to that role and shall act consistently with the local rules of court pertaining to CASAs.

(f) Each CASA shall be sworn in by a superior court judge or commissioner before beginning his or her duties.

(g) A judge may appoint a CASA when, in the opinion of the judge, a child requires services which can be provided by the CASA, consistent with the local rules of court.

(h) To accomplish the appointment of a CASA, the judge making the appointment shall sign an order, which may grant the CASA the authority to review specific relevant documents and interview parties involved in the case, as well as other persons having significant information relating to the child, to the same extent as any other officer of the court appointed to investigate proceedings on behalf of the court.

104. (a) The court shall determine the extent of the CASA's duties in each case. These duties may include an independent investigation of the circumstances surrounding a case to which he or she has been appointed, interviewing and observing the child and other appropriate individuals, and the reviewing of appropriate records and reports.

(b) The CASA shall report the results of the investigation to the court.

(c) The CASA shall follow the direction and orders of the court and shall provide information specifically requested by the court.

105. All otherwise confidential records and information acquired or reviewed by a CASA during the course of his or her duties shall remain confidential and shall be disclosed only pursuant to a court order.

106. The CASA shall be notified of hearings and other proceedings concerning the case to which he or she has been appointed.

107. Upon presentation of the order of his or her appointment by the CASA, and upon specific court order and consistent with the rules of evidence, any agency, hospital, school, organization, division or department of the state, physician and surgeon, nurse, other health care provider, psychologist, psychiatrist, police department, or mental health clinic shall permit the CASA to inspect and copy any records relating to the child involved in the case of appointment without the consent of the child or parents.

108. The Judicial Council shall report to the Legislature on the implementation of the program, and shall include recommendations on the continued funding and expansion of the program, as appropriate.

109. Nothing in this chapter permits a person acting as a CASA to participate or appear in criminal proceedings or in proceedings to declare a person a ward of the juvenile court pursuant to Section 601 or 602.

110. This chapter shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which

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

SEC. 6. (a) The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Judicial Council for the purposes of this act.

(b) A maximum of twenty thousand dollars ($20,000) may be allocated to each county participating in the program. Eligibility for an allocation shall be based on a match in cash or in-kind by the county CASA program.

CHAPTER 724

An act to add Section 1807.5 to the Vehicle Code, relating to driving records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 1807.5 is added to the Vehicle Code, to read:

1807.5. (a) Notwithstanding Section 1808, any record of the department of a conviction of Section 23152 or 23153 which occurred before January 1, 1987, is not a public record on and after a date which is five years after the date of conviction of that offense, and the department shall, thereafter, make any information relating to that conviction available only to persons authorized by law to receive the information.

(b) For the purposes of this section, "persons authorized by law to receive the information" means any of the following:

(1) The courts of the state.

(2) Peace officers, as defined in Section 830.1 of the Penal Code; subdivisions (a) and (b) of Section 830.2 of the Penal Code; subdivisions (a), (b), and (j) of Section 830.3 of the Penal Code; and subdivisions (a), (b), and (c) of Section 830.5 of the Penal Code.

(3) The Attorney General.

(4) District attorneys of any county within the state.

(5) Prosecuting city attorneys of any city within the state.

(6) Probation officers of any city or county of the state.

(7) Parole officers of any city or county of the state.

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

In order to prevent misuse of the information in a person's driving record, which this bill will help accomplish, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 725

An act to add Section 7099.85 to the Business and Professions Code, relating to contractors.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 7099.85 is added to the Business and Professions Code, to read:

7099.85. Notwithstanding Sections 7099.6 and 7099.8, the failure of an unlicensed individual to comply with a citation after it is final is a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 726

An act to add Section 830.12 to the Penal Code, relating to power of arrest.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 830.12 is added to the Penal Code, to read:

830.12. Notwithstanding any other provision of law, persons designated by a local agency as litter control officers, vehicle abatement officers, registered sanitarians, and solid waste specialists, are not peace officers, may not exercise the powers of arrest of a peace officer, as specified in Section 836, and shall not be authorized to carry or use firearms within the scope and course of their employment. These persons may, however, be authorized by the governing board of the particular local agency to issue citations involving violations of laws relating to abandoned vehicles and littering.

CHAPTER 727

An act to amend Section 485.010 of the Code of Civil Procedure, relating to attachments.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 485.010 of the Code of Civil Procedure is amended to read:

485.010. (a) Except as otherwise provided by statute, no right to attach order or writ of attachment may be issued pursuant to this chapter unless it appears from facts shown by affidavit that great or irreparable injury would result to the plaintiff if issuance of the order were delayed until the matter could be heard on notice.

(b) The requirement of subdivision (a) is satisfied if any of the following are shown:

(1) Under the circumstances of the case, it may be inferred that there is a danger that the property sought to be attached would be concealed, substantially impaired in value, or otherwise made unavailable to levy if issuance of the order were delayed until the matter could be heard on notice.

(2) Under the circumstances of the case, it may be inferred that the defendant has failed to pay the debt underlying the requested attachment and the defendant is insolvent in the sense that the defendant is generally not paying his or her debts as those debts become due, unless the debts are subject to a bona fide dispute. Plaintiff's affidavit filed in support of the ex parte attachment shall state, in addition to the requirements of Section 485.530, the known undisputed debts of the defendant, that the debts are not subject to bona fide dispute, and the basis for plaintiff's determination that the defendant's debts are undisputed.

(3) A bulk sales notice has been recorded and published pursuant to Division 6 (commencing with Section 6101) of the Commercial Code with respect to a bulk transfer by the defendant.

(4) An escrow has been opened pursuant to the provisions of Section 24074 of the Business and Professions Code with respect to the sale by the defendant of a liquor license.

(5) Any other circumstance showing that great or irreparable injury would result to the plaintiff if issuance of the order were delayed until the matter could be heard on notice.

(c) Upon a writ being issued solely on a showing under paragraph (2) of subdivision (b), if the defendant requests the court to review the issuance of the writ, the court shall conduct a hearing within five court days after the plaintiff is served with notice of the defendant's request. A writ issued solely on a showing under paragraph (3) of subdivision (b) shall be limited to the property covered by the bulk

sales notice or the proceeds of the sale of such property. In addition to any other service required by this title, such writ shall be served by the levying officer on the transferee or auctioneer identified by the bulk sales notice not more than five days after the levy of such writ. A writ issued solely on a showing under paragraph (4) of subdivision (b) shall be limited to the plaintiff's pro rata share of the proceeds of the sale in escrow.

CHAPTER 728

An act to amend Section 5100 of, and to add a heading to Article 3.5 (commencing with Section 5060) of Chapter 1 of Division 3 of, the Business and Professions Code, relating to accountancy.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988.]

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

SECTION 1. A heading is added immediately preceding Section 5060 as Article 3.5 (commencing with Section 5060) of Chapter 1 of Division 3 of the Business and Professions Code, to read:

Article 3.5. Standards of Professional Conduct

SEC. 2. Section 5100 of the Business and Professions Code is amended to read:

5100. After notice and hearing the board may revoke, suspend or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of any such permit or certificate for unprofessional conduct which includes, but is not limited to, one or any combination of the following causes:

(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.

(b) Fraud or deceit in obtaining a certificate as a certified public accountant or in obtaining registration under this chapter or in obtaining a permit to practice public accountancy under this chapter.

(c) Dishonesty, fraud, or gross negligence in the practice of public accountancy or in the performance of the bookkeeping operations described in Section 5052.

(d) Cancellation, revocation or suspension of a certificate, other authority to practice or refusal to renew the certificate or other authority to practice as a certified public accountant or a public accountant, or any other discipline by any other state or foreign country.

(e) Violation of any of the provisions of Section 5120.

(f) Willful violation of any provision of this chapter or any rule or regulation promulgated by the board under the authority granted under this chapter.

(g) Suspension or revocation of the right to practice before any governmental body or agency.

(h) Fiscal dishonesty or breach of fiduciary responsibility of any kind, including, but not limited to, the following:

(1) Knowing preparation, publication or dissemination of false, fraudulent or materially misleading financial statements, reports, or information.

(2) Embezzlement, theft, misappropriation of funds or property, or obtaining money, property or other valuable consideration by fraudulent means or false pretenses.

CHAPTER 729

An act to add Section 4700.10 to, and to repeal Section 4800.7 of, the Civil Code, relating to family law.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 4700.10 is added to the Civil Code, to read:

4700.10. (a) As used in this section:

(1) "Custodial parent" means a party awarded physical custody of a child.

(2) "Deferred sale of home order" means an order that temporarily delays the sale and awards the temporary exclusive use and possession of the family home to a custodial parent of minor children, or children for whom support is authorized under Section 196 or 206, whether or not the custodial parent has sole or joint custody, in order to minimize the adverse impact of dissolution or legal separation on the welfare of the children.

(3) "Resident parent" means a party who has requested or who has already been awarded a deferred sale of home order.

(b) In any case in which one of the parties has requested a deferred sale of home order pursuant to this section, the court shall first determine whether it is economically feasible to maintain the payments of any note secured by a deed of trust, property taxes, insurance for the home during the period the sale of the home is deferred, and the condition of the home comparable to that at the time of trial. In making this determination, the court shall consider the resident parent's income, the availability of spousal support, child support, or both spousal and child support, and any other sources of funds available to make those payments. In requiring this

determination, it is the intent of the Legislature to avoid the likelihood of possible defaults on the payments of notes and resulting foreclosures, to avoid inadequate insurance coverage, to prevent deterioration of the condition of the family home, and to prevent any other circumstance which would jeopardize both parents' equity in the home. After making this determination that it is economically feasible to consider ordering a deferred sale of the family home, the court in exercising its discretion to grant or deny a deferred sale of home order, shall consider all of the following:

(1) The length of time the child has resided in the home.

(2) The child's placement or grade in school.

(3) The accessibility and convenience of the home to the child's school and other services or facilities used by and available to the child, including child care.

(4) Whether the home has been adapted or modified to accommodate any physical disabilities of a child or a resident parent in a manner such that a change in residence may adversely affect the ability of the resident parent to meet the needs of the child.

(5) The emotional detriment to the child associated with a change in residence.

(6) The extent to which the location of the home permits the resident parent to continue his or her employment.

(7) The financial ability of each parent to obtain suitable housing.

(8) The tax consequences to the parents.

(9) The economic detriment to the nonresident parent in the event of a deferred sale of home order.

(10) Any other factors the court deems just and equitable.

(c) Upon a determination pursuant to subdivision (b) that a deferred sale of home order is necessary in order to minimize the adverse impact of dissolution or legal separation on the child, the court may make such an order to a custodial parent. The order shall include the legal description and assessor's parcel number of the real property which is subject to the order and the duration of the order, and shall be recorded in the office of the county recorder of the county in which the real property is located. Such an order may be considered to constitute additional child support pursuant to Section 4728.5.

(d) The court may make an order specifying the parties' respective responsibilities for the payment of the costs of routine maintenance and capital improvements.

(e) Except as otherwise agreed to by the parties in writing, the following shall apply:

(1) A deferred sale of home order may be modified or terminated at any time at the discretion of the court.

(2) If the party awarded the deferred sale of home order remarries, or if there is otherwise a change in circumstances affecting the determinations made pursuant to subdivision (b) or affecting the economic status of the parties or the children on which the award is based, a rebuttable presumption, affecting the burden

of proof, is created that further deferral of the sale is no longer an equitable method of minimizing the adverse impact of the dissolution or legal separation on the children.

(f) In making an order pursuant to this section, the court shall reserve jurisdiction to determine any and all issues that arise with respect to the deferred sale of home order including, but not limited to, the maintenance of the home and the tax consequences to each party.

(g) This section is applicable regardless of whether the deferred sale of home order is made before or after January 1, 1989.

SEC. 2. Section 4800.7 of the Civil Code is repealed.

CHAPTER 730

An act to amend Section 33200 of the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 33200 of the Public Resources Code is amended to read:

33200. (a) The Santa Monica Mountains Conservancy is hereby established. The conservancy is composed of seven voting members and two ex officio members. The voting members are as follows:

(1) The Director of the National Park Service or an employee designated by the director.

(2) A member representing the City of Los Angeles, appointed by the mayor with the approval of the city council.

(3) Three public members who shall be residents of either the County of Los Angeles or the County of Ventura, one of whom shall be appointed by the Governor, one of whom shall be appointed by the Senate Committee on Rules, and one of whom shall be appointed by the Speaker of the Assembly. At least one of the public members shall reside within the San Fernando Valley statistical area, as defined in Section 11093 of the Government Code.

(4) An elected official who is a representative nominated by the city councils of those cities which have at least 75 percent of their areas within the zone who shall be appointed by the Board of Supervisors of the County of Los Angeles or a member appointed by the Board of Supervisors of the County of Los Angeles, or that member's designee.

(5) An elected official who is either a member of the City Council of the City of Thousand Oaks or a member of the Board of Supervisors of the County of Ventura and who shall be appointed by the Board of Supervisors of the County of Ventura, or the elected

official's designee.

The seat of a public member shall be deemed vacant if the member changes his or her residence to a county other than Los Angeles or Ventura County.

The California Coastal Commission and the State Coastal Conservancy shall each appoint an ex officio member who shall be either a member or employee of their respective agency. The ex officio member appointed by the California Coastal Commission and the State Coastal Conservancy shall be nonvoting members, except that the ex officio member appointed by the State Coastal Conservancy may vote on any matter relating to a project undertaken within the coastal zone portion of the zone.

On the 10th working day after certification pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of any local coastal program, or any portion thereof, for any portion of the zone, the ex officio member appointed by the California Coastal Commission may vote on any matter relating to a project undertaken within the coastal zone portion of the zone and the ex officio member appointed by the State Coastal Conservancy may not vote on the matter.

(b) The chairperson and vice chairperson of the conservancy shall be selected by the voting members of the conservancy for a one-year term. A majority of the total authorized and appointed voting membership of the conservancy constitutes a quorum for the transaction of any business under this division.

(c) The following members of the conservancy shall be compensated for attendance at regular meetings of the conservancy at the rate of one hundred dollars ($100) per day:

(1) The public members.

(2) The member appointed by the Board of Supervisors of the County of Los Angeles or that member's designee, unless the member or designee is also a member of the board of supervisors, in which case no compensation shall be paid.

(3) The member appointed by the Board of Supervisors of the County of Ventura or that member's designee, unless the member or designee is also a member of a board of supervisors, in which case no compensation shall be paid.

(4) The members appointed by the State Coastal Conservancy and the California Coastal Commission if these members are not employees of their respective agency or are not full-time compensated elected officials.

(5) The appointed member representing the City of Los Angeles.

All members of the conservancy shall be reimbursed for actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

CHAPTER 731

An act to add Section 38739 to the Food and Agricultural Code, relating to food, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 38739 is added to the Food and Agricultural Code, to read:

38739. Whipped topping made from nonfat yogurt shall comply with the following standards:

(a) The product shall contain not less than 25 percent nonfat yogurt by weight.

(b) The product shall contain edible oil or fat other than milkfat and not less than 4 percent or more than 10 percent edible oil or fat from all sources.

(c) The product shall be sold in the frozen state and thawed prior to use. It shall weigh not less than two pounds per gallon.

(d) The product may contain nutritive carbohydrate sweeteners and may be characterized by the addition of flavoring ingredients.

(e) The product may contain harmless edible stabilizers and emulsifiers and other ingredients approved by the director.

(f) The product may contain fruit juices, harmless flavoring, and harmless coloring.

(g) The product shall be pasteurized.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to allow the immediate test marketing of the new whipped nonfat yogurt toppings, it is necessary that this act take effect immediately.

CHAPTER 732

An act to add Section 1597.01 to the Health and Safety Code, relating to minors.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 1597.01 is added to the Health and Safety Code, to read:

1597.01. (a) The State Department of Social Services shall conduct a comprehensive evaluation of the square footage requirements for outdoor activity space in child day care centers, as contained in regulations in Title 22 of the California Code of Regulations, and shall report to the Legislature by June 1, 1989, on all of the following:

(1) The extent to which the current waiver process is used to permit exceptions to the 75 square feet per child requirement. This shall include the number of waivers that are requested, approved, and denied, by geographic area of the state, and the reasons for approval or denial.

(2) The results of a survey of licensed child day care centers on whether or not the current regulatory requirements for outdoor activity space should be retained or changed.

(3) Recommendations for whether the 75 square feet per child regulatory requirement should be retained or changed. This shall include a discussion of whether the square footage requirement for outdoor activity space for infants should be reduced and, if so, by how much and for what age group.

(b) In conducting the evaluation, the department shall consult actively with licensed child care providers, resource and referral agencies, urban planners and child care coordinators, and developers of new facilities, among others. The department shall solicit public testimony on the issue of whether the square footage for infants should be retained or changed and under what circumstances.

CHAPTER 733

An act to add Section 785.7 to the Public Utilities Code, relating to gas.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988.]

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

SECTION 1. It is the intent of the Legislature, in enacting Section 785.7 of the Public Utilities Code, to require gas corporations to do business with gas producers located in this state on an equal basis with out-of-state producers.

Furthermore, it is the intent of the Legislature that the Public Utilities Commission adopt rules and orders requiring gas corporations to carry out this section taking into account the small producer and the fragmentation of supply.

SEC. 2. Section 785.7 is added to the Public Utilities Code, to read:

785.7. (a) No gas corporation shall charge, directly or indirectly, a higher rate for the transportation of gas produced in this state than for the transportation of gas from any other source. No gas corporation shall require a producer of gas or a customer for whom any gas transportation service is performed to utilize the corporation's services or facilities either to deliver gas from the producer's facility to the corporation's gas plant or to process the gas to render it compatible with the corporation's gas plant.

(b) If a producer of gas or customer delivers to the gas corporation for transportation any gas requiring any processing service, including, but not limited to, dehydration, processing for extraction of liquids, or other purification, different from, or in addition to, that performed on other gas in the corporation's gas plant, in order for that gas to be compatible with the gas plant, the gas corporation may impose a charge for any such service actually performed. If the gas corporation constructs new facilities at the request of the producer or customer exclusively to receive gas by the gas corporation's gas plant, the gas corporation may impose a charge for the construction, operation, and maintenance of these facilities. The amount of the charge for the processing service or facilities authorized by this subdivision shall be established by the commission and shall be based on the actual expenses for the construction, operation, maintenance, labor, materials, and overhead involved in providing the specific service or facilities.

(c) For purposes of this section, "transportation" means the movement of gas from the point of receiving by the gas plant of a gas corporation to the point of delivery to the person or corporation for whom the transportation service is performed, including any related gathering or processing of the gas. The point of receiving by the gas

plant is that point in the gas corporation's existing plant which is nearest the source of the gas and which has receiving capacity, but does not include any new facility constructed by the gas corporation at the request of the producer or customer exclusively to receive that gas. The terms and conditions of receiving, for these purposes, shall be comparable to the gas corporation's purchase contracts in the general area of the point of receiving.

(d) Subdivision (a) does not apply to exchanges of gas between a gas corporation and a producer of gas.

(e) The commission shall allow the gas corporation to fully recover all reasonable and prudent costs associated with ownership and operation of the gas plant used for transportation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 734

An act to add Section 18114.1 to, and to repeal Sections 50787 and 50788 of, the Health and Safety Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 18114.1 is added to the Health and Safety Code, to read:

18114.1. (a) In addition to the annual registration fee required by Section 18114, an annual fee of five dollars ($5) shall be paid to the department at the time of registration or renewal for each transportable section of a manufactured home or mobilehome registered pursuant to this part. All revenues derived from this fee shall be deposited in the Mobilehome Park Purchase Fund provided for in Chapter 11 (commencing with Section 50780) of Part 2 of Division 31.

(b) Any transportable section of a manufactured home or mobilehome registered pursuant to this part and located on a private parcel owned by the registered owner of the manufactured home or mobilehome shall be exempt from the fee imposed by subdivision (a), if the owner provides documentation or a written statement, signed under penalty of perjury, which establishes to the satisfaction of the department that the manufactured home or mobilehome is located on a private parcel owned by the registered owner of the

manufactured home or mobilehome.

(c) Pursuant to subdivision (b), upon renewal of registration in 1989, or thereafter, once the registered owner provides documentation or a written statement to the department to establish the exemption, the department shall not require the owner to establish the exemption in each subsequent year upon renewal, unless the department receives evidence that the manufactured home or mobilehome is no longer located on a private parcel owned by the registered owner of the home. Renewal forms for registered owners of manufactured homes or mobilehomes who have established the exemption shall not reflect or include the fee required pursuant to subdivision (a).

SEC. 2. Section 50787 of the Health and Safety Code is repealed.

SEC. 3. Section 50788 of the Health and Safety Code is repealed.

SEC. 4. The sum of seventy thousand dollars ($70,000) is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund to the Department of Housing and Community Development for administrative costs of the department incurred pursuant to subdivision (b) of Section 18114.1 of the Health and Safety Code.

CHAPTER 735

An act to add Section 1714.25 to the Civil Code, and to add Article 18 (commencing with Section 27900) to Chapter 4 of Division 22 of the Health and Safety Code, relating to liability.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 1714.25 is added to the Civil Code, to read:

1714.25. (a) Except for injury resulting from negligence or a willful act in the preparation or handling of donated food, no food facility that donates any food that is fit for human consumption at the time it was donated to a nonprofit charitable organization or a food bank shall be liable for any damage or injury resulting from the consumption of the donated food.

The immunity from civil liability provided by this subdivision applies regardless of compliance with any laws, regulations, or ordinances regulating the packaging or labeling of food, and regardless of compliance with any laws, regulations, or ordinances regulating the storage or handling of the food by the donee after the donation of the food.

(b) A nonprofit charitable organization or a food bank that, in good faith, receives and distributes food without charge that is fit for human consumption at the time it was distributed is not liable for an injury or death due to the food unless the injury or death is a direct

result of the negligence, recklessness, or intentional misconduct of the organization.

(c) For the purposes of this section:

(1) "Nonprofit charitable organization" has the meaning defined in Section 27902 of the Health and Safety Code.

(2) "Food bank" has the meaning defined in Section 27904 of the Health and Safety Code.

SEC. 2. Article 18 (commencing with Section 27900) is added to Chapter 4 of Division 22 of the Health and Safety Code, to read:

Article 18. Food Facility Food Donations

27900. Any food facility may donate, free of charge, food to a food bank or to any other nonprofit charitable organization for distribution to persons free of charge.

27902. For the purposes of this article, "nonprofit charitable organization" means any organization that was organized and is operating for charitable purposes and meets the requirements of Section 214 of the Revenue and Taxation Code.

27904. For the purposes of this article, "food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and nutritional needs.

27908. No food facility that donates food as permitted by this article shall be subject to civil or criminal liability or penalty for violation of any laws, regulations, or ordinances regulating the labeling or packaging of the donated product or, with respect to any other laws, regulations, or ordinances, for a violation occurring after the time of the donation.

27910. The immunities provided in this article and by Section 1714.25 of the Civil Code are in addition to any other immunities provided by law including those provided by Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code.

CHAPTER 736

An act to amend Section 4148 of the Business and Professions Code, relating to hypodermic needles and syringes.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 4148 of the Business and Professions Code is amended to read:

4148. Any hypodermic needle or syringe which is to be disposed of, shall be destroyed in a manner so as to render each unit unfit for reuse in any manner. Destruction may include, but is not limited to, grinding and disposal in sewerage systems where such disposal is authorized by the appropriate agency having jurisdiction over the sewerage system. No hypodermic needle or syringe shall be disposed of in a public place or area unless destroyed and placed in a container approximately the size of the needle or syringe rendering it reasonably safe from an accidental cutting or sticking.

This section shall not prohibit the discarding of destroyed syringes or needles in a private home, physician's or dentist's office, or health care facility for disposal in a normal manner.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 737

An act to add Section 2070.1 to the Insurance Code, relating to insurance.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 2070.1 is added to the Insurance Code, to read:

2070.1. (a) Any insurer whose insured has made a claim under his or her residential fire or property insurance policy for loss due, in whole or in part, to corrosive soils shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the insured's claim for damage. Failure of the insurer to provide the written notice shall operate to toll the applicable statute of limitation for a period of 30 days from the date written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

This section applies only to claims presented and not denied prior to January 1, 1989, and to claims presented on or after January 1, 1989.

CHAPTER 738

An act to add Chapter 5.5 (commencing with Section 19240) to Part 2 of Division 5 of Title 2 of the Government Code, relating to state civil service.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) The State of California is committed to improving employment opportunities in state government for persons with disabilities.

(b) Disabled employees are not proportionally represented in a number of state agencies and departments.

(c) Examinations for state civil service positions have not been validated for individuals with specific disabilities.

(d) Equitable testing procedures are likely to increase job opportunities for persons with disabilities.

(e) Increased employment of the disabled would prove to be a cost-effective practice in that increased employment results in a reduction in the outlay of state benefits.

(f) The recruitment, qualification, and employment of persons with disabilities is facilitated by using a number of methods ranging from traditional civil service selection processes to appropriate alternatives such as the Limited Examination and Appointment Program. The Limited Examination and Appointment Program has proven to be an effective alternative selection process and should be continued on a permanent basis as one of several methods used to promote the employment of persons with disabilities.

(g) While the Limited Examination and Appointment Program has been successful in employing many disabled persons in clerical and lower skilled positions, it should also strive to employ more persons with disabilities in professional and technical positions.

SEC. 2. Chapter 5.5 (commencing with Section 19240) is added to Part 2 of Division 5 of Title 2 of the Government Code, to read:

CHAPTER 5.5. LIMITED EXAMINATION AND APPOINTMENT PROGRAM

Article 1. General

19240. The State Personnel Board shall be responsible for the Limited Examination and Appointment Program. This program shall provide an alternative to the traditional civil service examination and appointment process to facilitate the hiring of persons with

disabilities in the state civil service where accommodation can be provided and where prohibitive physical requirements are not mandated by the board.

19241. The board shall establish rules and procedures for the implementation of this chapter, which may provide for the establishment of eligibility criteria for participation, special job classifications, examination techniques, and appointment and appeals procedures.

Article 2. Examinations and Appointments

19242. The board or its designee shall conduct competitive readiness interviews and establish lists of the names of qualified persons with disabilities which shall be referred to appointing powers for use in the hiring process.

19242.2. Referral lists shall contain the names of persons with disabilities who meet eligibility criteria for participation and the minimum qualifications of the job classification and are determined to be ready for placement in a job setting. Notwithstanding any other provision of law, and to provide for appropriate job-person placement, all candidates on referral lists shall be eligible for examination appointment.

19242.4. All examination appointments to positions under the Limited Examination and Appointment Program shall be made on a temporary and provisional basis to allow candidates to demonstrate their ability to perform the duties of the position. The term of the appointment shall be known as the job examination period and its duration shall be determined by board rule.

19242.6. Candidates serving in positions under the Limited Examination and Appointment Program shall not acquire permanent civil service status but shall receive the same salary and benefits to which other state employees in temporary positions are entitled.

19242.8. The board or its designee shall develop evaluation standards which are appropriate tests of fitness for the job classification. During the job examination period, the appointing power shall prepare written evaluations of the candidate's performance in accordance with board rule. The final evaluation shall contain a recommendation as to whether or not to appoint the candidate to an appropriate position where civil service status may accumulate.

19242.9. Upon failure of the appointing power to terminate the appointment of the candidate within 30 days following the end of the job examination period, it shall be presumed that the candidate has qualified in the examination.

19243. Upon successful completion of the job examination period, the candidate shall have qualified in the examination. With the approval of the board, the appointing power may appoint the candidate, without further examination, to an appropriate position

where civil service status may accumulate.

19243.2. With the approval of the board, the appointing power may shorten or extend the duration of the job examination period.

19243.4. Upon unsuccessful completion of the job examination period, the appointing power may terminate the appointment of the candidate in accordance with board rule.

Article 3. Appeals

19244. Applicants for and candidates in the Limited Examination and Appointment Program examination process may appeal in accordance with board rule any of the following actions:

(a) A refusal to certify eligibility to participate in the program.

(b) A rejection of an application to participate in a job readiness interview.

(c) A disqualification by a job readiness interview panel.

(d) A denial of a request for reasonable accommodation during the job examination period.

(e) A termination of an appointment of a candidate during a job examination period.

CHAPTER 739

An act to amend Section 22007 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor August 30, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 22007 of the Education Code is amended to read:

22007. For the purposes of payments into or out of the retirement fund for adjustments of errors or omissions, the period of limitation of actions shall be applied as follows:

(a) No action may be commenced by or against the board or the system three years after all obligations to or on behalf of the member, former member, disabilitant, retirant, or beneficiary have been discharged.

(b) In the cases where the system makes an error resulting in incorrect payment to a member, disabilitant, retirant, beneficiary, child, or dependent parent, the system's right to collect shall expire three years from the date of payment.

(c) In cases where payment is erroneous due to lack of information or inaccurate information regarding the eligibility of a member, disabilitant, retirant, beneficiary, child, or dependent parent to receive benefits under this part, the period of limitation

shall commence with the discovery of the erroneous payment.

(d) Notwithstanding any other provision of this section, where any erroneous payment has been made on the basis of fraud or intentional misrepresentation by a member, disabilitant, retirant, beneficiary, or other party in relation to or on behalf of a member, disabilitant, retirant, or beneficiary, the three-year period of limitation shall not be deemed to commence or to have commenced until the discovery of the error or omissions.

CHAPTER 740

An act to amend Sections 90011, 90012, 90013, 90014, 90015, 90016, 90017, 90018, 90019, 90034, 90037, 90038, 90039, 90042, 90043, 90044, 90045, 90046, 90047, 90048, 90051, 90052, 90053, 90056, 90059, 90066, 90070, 90071, 90073, 90074, 90075, 90076, and 90077 of the Education Code, relating to bonds.

[Approved by Governor August 30, 1988 Filed with Secretary of State August 31, 1988.]

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

SECTION 1. Section 90011 of the Education Code is amended to read:

90011. The following terms wherever used or referred to in this article, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the Trustees of the California State University.

(b) "State university" and "campus of the California State University" each means any of the institutions included within the California State University as specified in Section 89001.

(c) "Project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped, and operated by the board for use by students, faculty members, or other employees of any one or more campuses of the California State University, or a combination of those facilities, which may include facilities already completed and facilities authorized for future completion, designated by the board as a project in providing for the issuance of revenue bonds or notes.

(d) "Bonds" or "revenue bonds" mean the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board, payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective

of the form of the obligations.

(e) "Notes" and "revenue bond anticipation notes" mean the written evidence of any obligation issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(f) "Revenues" mean and include any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of, or arising from, a project, including any revenue that may have been, or may be, impounded or deposited in any fund in the State Treasury created by this article for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof, or the interest thereon.

(g) The "holder of bonds" or "bondholder" or any similar terms means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any outstanding revenue bond or bond which shall at the time be registered other than to bearer.

(h) "Indenture" means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether the agreement is expressed in the form of a resolution of the board or by other instrument.

(i) "Person" includes any individual, firm, corporation, association, copartnership, trust, business trust or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or any agency thereof or of this state.

(j) (1) The present tense includes the past and future tenses; and the future, the present.

(2) The masculine gender includes the feminine and neuter.

(3) The singular number includes the plural, and the plural the singular.

(4) "Shall" is mandatory and "may" is permissive.

SEC. 1.5. Section 90011 of the Education Code is amended to read:

90011. The following terms wherever used or referred to in this article, or in any indenture entered into pursuant hereto, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) "Board" means the Trustees of the California State University.

(b) "State university" and "campus of the California State University" each means any of the institutions included within the California State University as specified in Section 89001.

(c) "Project" means any one or more dormitories or other housing facilities, boarding facilities, student union or activity facilities, vehicle parking facilities, or any other auxiliary or supplementary facilities for individual or group accommodation, owned or operated or authorized to be acquired, constructed, furnished, equipped, and

operated by the board for use by students, faculty members, or other employees of any one or more campuses of the California State University, or a combination of those facilities, which may include facilities already completed and facilities authorized for future completion, designated by the board as a project in providing for the issuance of revenue bonds or notes. As to any housing facility, and any facility that is auxiliary or supplementary to that housing facility, the use by students may include use by any minor children of a student who reside with that student, and, in that event, by a spouse who resides with that student.

(d) "Bonds" or "revenue bonds" mean the written evidence of any obligation, other than revenue bond anticipation notes, issued by the board , payment of which is secured by a pledge of revenues or any part of revenues, as provided in this article, in order to obtain funds with which to carry out the purposes of this article, irrespective of the form of the obligations.

(e) "Notes" and "revenue bond anticipation notes" mean the written evidence of any obligation issued by the board, pursuant to Section 90013, in anticipation of the sale of revenue bonds, for the purpose of obtaining funds to carry out the purposes of this article.

(f) "Revenues" mean and include any and all fees, rates, rentals, and other charges received or receivable in connection with, and any and all other incomes and receipts of whatever kind and character derived by, the board from the operation of, or arising from, a project, including any revenue that may have been, or may be, impounded or deposited in any fund in the State Treasury created by this article for the security of any notes or bonds issued hereunder, or for the purpose of providing for the payment thereof, or the interest thereon.

(g) The "holder of bonds" or "bondholder" or any similar terms means any person who shall be the bearer of any outstanding revenue bond or bond registered to bearer or not registered or the registered owner of any outstanding revenue bond or bond which shall at the time be registered other than to bearer.

(h) "Indenture" means an agreement entered into by the board pursuant to which revenue bonds are issued, regardless of whether the agreement is expressed in the form of a resolution of the board or by other instrument.

(i) "Person" includes any individual, firm, corporation, association, copartnership, trust, business trust or receiver or trustee or conservator for any thereof, but does not include this state or any public corporation, political subdivision, city, county, district, or any agency thereof or of this state.

(j) (1) The present tense includes the past and future tenses; and the future, the present.

(2) The masculine gender includes the feminine and neuter.

(3) The singular number includes the plural, and the plural the singular.

(4) "Shall" is mandatory and "may" is permissive.

SEC. 2. Section 90012 of the Education Code is amended to read:

90012. The board, for the purposes of this article, has power and is hereby authorized, in addition to and amplification of all other powers conferred upon the board by the Constitution of the State of California or by any statute of the State of California:

(a) To acquire subject to the Property Acquisition Law, Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code, by grant, purchase, gift, devise, or lease, and to hold and use any real or personal property necessary or convenient or useful for the carrying on of any of its powers pursuant to the provisions of this article.

(b) To construct, operate and control any project.

(c) To fix rates, rents or other charges for the use of any project acquired, constructed, equipped, furnished, operated or maintained by the board, or for services rendered in connection therewith, and to alter, change or modify the same at its pleasure, subject to any contractual obligation which may be entered into by the board with respect to the fixing of rates, rents or charges.

(d) To enter into covenants to increase rates or charges from time to time as may be necessary pursuant to any contract or agreement with the holders of any bonds of the board.

(e) At any time and from time to time, to issue revenue bonds in order to raise funds for the purpose of establishing any project or of acquiring lands for any project, or of acquiring, constructing, improving, equipping, furnishing, financing, or refinancing any project, including payment of principal and interest on revenue bond anticipation notes, or for any combination of these purposes, which bonds may be secured as hereinafter provided.

(f) At any time and from time to time, to issue revenue bond anticipation notes pursuant to Section 90013.

(g) To adopt rules and regulations as may be necessary to enable the board to exercise the powers and to perform the duties conferred or imposed upon the board by this article.

(h) Nothing contained in this section or elsewhere in this article shall be construed directly or by implication to be in anywise in derogation of or in limitation of powers conferred upon or existing in the board by virtue of provisions of the Constitution or statutes of this state.

SEC. 3. Section 90013 of the Education Code, as amended by Chapter 33 of the Statutes of 1984, is amended to read:

90013. (a) The board may issue revenue bond anticipation notes, in anticipation of the sale of revenue bonds. Before issuing any of these notes, the board shall, by resolution, authorize their issuance, declare the purpose for which the proceeds of the notes shall be expended and specify the maximum amount of notes to be issued for that purpose.

Revenue bond anticipation notes shall bear interest at the rate or rates as the board may determine, not exceeding 12 percent per annum, payable annually or semiannually, and shall mature on the

date or dates as the board may determine and set forth in the resolution authorizing their issuance, but not more than three years from their date.

The proceeds from the sale of notes shall be used only for the purposes for which the proceeds of the sale of bonds may be used in anticipation whereof the notes are issued.

All notes issued, including renewal notes, and the interest thereon shall be payable from the proceeds of the sale of the bonds, the revenues of the project, any appropriations made for that purpose or all of these sources, and not otherwise, except that in the event that the sale of the bonds shall not have occurred prior to the maturity of the notes issued in anticipation thereof, the board may issue renewal notes in order to pay the notes then maturing. No renewal notes shall be issued after the sale of the bonds in anticipation of which the original note was issued.

Revenue bond anticipation notes may be secured by a pledge of, and lien upon, the proceeds of the sale of bonds, the revenues of the project, and any other legally available funds.

A resolution authorizing the issuance of revenue bond anticipation notes may include those provisions as the board deems necessary or advisable for the security of the notes issued thereunder, and may include any and all provisions authorized to be included in indentures by this article.

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

SEC. 4. Section 90013 of the Education Code, as added by Section 6 of Chapter 333 of the Statutes of 1981, is amended to read:

90013. The board may issue revenue bond anticipation notes, in anticipation of the sale of revenue bonds. Before issuing any of these notes, the board shall, by resolution, authorize their issuance, declare the purpose for which the proceeds of the notes shall be expended and specify the maximum amount of notes to be issued for that purpose.

Revenue bond anticipation notes shall bear interest at the rate or rates as the board may determine, not exceeding 10 percent per annum, payable annually or semiannually, and shall mature on the date or dates as the board may determine and set forth in the resolution authorizing their issuance, but not more than three years from their date.

The proceeds from the sale of notes shall be used only for the purposes for which the proceeds of the sale of bonds may be used in anticipation whereof the notes are issued.

All notes issued, including renewal notes, and the interest thereon shall be payable from the proceeds of the sale of the bonds, the revenues of the project, any appropriations made for that purpose or all of these sources, and not otherwise, except that in the event that the sale of the bonds shall not have occurred prior to the maturity of the notes issued in anticipation thereof, the board may issue

renewal notes in order to pay the notes then maturing. No renewal notes shall be issued after the sale of the bonds in anticipation of which the original note was issued.

Revenue bond anticipation notes may be secured by a pledge of, and lien upon, the proceeds of the sale of bonds, the revenues of the project, and any other legally available funds.

A resolution authorizing the issuance of revenue bond anticipation notes may include those provisions as the board deems necessary or advisable for the security of the notes issued thereunder, and may include any and all provisions authorized to be included in indentures by this article.

This section shall become operative January 1, 1990.

SEC. 5. Section 90014 of the Education Code is amended to read:

90014. Notes authorized to be issued under this article shall be sold by the Treasurer, for cash, in such manner as the Treasurer shall be directed by a resolution requesting the sale adopted by the board.

SEC. 6. Section 90015 of the Education Code is amended to read:

90015. The validity of the authorization and issuance of any revenue bonds or revenue bond anticipation notes by the board is not dependent on nor affected in any way by:

(a) Proceedings taken by the board for the acquisition, construction or completion of any project or any part thereof.

(b) Any contracts made by the board in connection with the acquisition, construction or completion of any project.

(c) The failure to complete any project for which bonds or notes are authorized to be issued.

SEC. 7. Section 90016 of the Education Code is amended to read:

90016. The board shall issue revenue bonds and revenue bond anticipation notes in its name and as its obligation, but no bond or note issued or sold pursuant to this article shall be or become a lien, charge or liability against the State of California or against the board or against the property or funds of either, except, in the case of revenue bonds, to the extent of the pledge of revenues or part of revenues of the project, as may be provided by the indenture pursuant to which revenue bonds are issued, and, in the case of notes, to the extent of the pledge of revenues of the project and proceeds of the sale of bonds, as may be provided in the resolution authorizing the issuance of the notes. Each of these bonds and notes issued by the board shall contain a recital on the face thereof, stating that neither the payment of the principal nor any part thereof, nor any interest thereon, constitutes a debt, liability or obligation of the State of California.

SEC. 8. Section 90017 of the Education Code is amended to read:

90017. The board shall determine the time, form, and manner of the issuance of revenue bonds and revenue bond anticipation notes.

SEC. 9. Section 90018 of the Education Code is amended to read:

90018. The board may enter into indentures providing for the aggregate principal amount, date or dates, maturities, interest rates, denominations, form, registration, transfer and interchange of any

revenue bonds and coupons issued pursuant to this article, and the terms and conditions on which the same shall be executed, issued, secured, sold, paid, redeemed, funded, and refunded. Reference on the face of the bonds to the indenture by its date of adoption, or the apparent date on the face thereof, is sufficient to incorporate all of the provisions thereof and of this article into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this article, and is bound thereby.

SEC. 10. Section 90019 of the Education Code is amended to read:

90019. An indenture pursuant to which bonds are issued may include any and all of the covenants and agreements on the part of the board as the board deems necessary or advisable for the better security of the bonds issued thereunder.

SEC. 11. Section 90034 of the Education Code is amended to read:

90034. An indenture may include a clause prescribing a procedure by which the terms and conditions of the indenture may be subsequently amended or modified with the consent of the board and the vote or written assent of the holders of a specified principal amount or specified proportion of the bonds issued and outstanding. The clause may provide for meetings of bondholders and for the manner in which the consent of the bondholders may be given. The clause shall specifically state the effect of the amendment or modification upon the rights of the holders of all of the bonds and interest coupons appertaining thereto, whether attached thereto or detached therefrom.

With respect to any clause providing for the modification or amendment of an indenture, the board may agree that bonds held by the Treasurer, the United States or any instrumentality thereof, or the State of California or any political subdivision thereof (including every municipal corporation, district, public corporation, board or agency of any kind or class) shall not be counted as outstanding bonds, or be entitled to vote or assent, but shall, nevertheless, be subject to any modification or amendment of this type.

SEC. 12. Section 90037 of the Education Code is amended to read:

90037. The board shall prescribe the duties and powers of the trustee with respect to the issuance, authentication, sale and delivery of the bonds and the payment of principal and interest thereof, the redemption of the bonds, the registration and discharge from registration of the bonds, and the management of any sinking fund or other funds provided as security for the bonds.

SEC. 13. Section 90038 of the Education Code is amended to read:

90038. The board may provide for one or several issues of bonds and may issue bonds in series or may divide any issue into one or more divisions and fix different maturities or dates of those bonds, different rates of interest, or prescribe different terms and conditions for the bonds of the several series or divisions. It is not necessary that

all bonds of the same authorized issue be of the same kind or character, have the same security, or be of the same interest rate, but the terms thereof shall in each case be provided for by the board, at or prior to the issue thereof.

SEC. 14. Section 90039 of the Education Code is amended to read:

90039. Bonds may be issued as coupon bonds or as registered bonds. The board may provide for the interchange of coupon bonds for registered bonds and registered bonds for coupon bonds, and may provide that the bonds shall be registered as to principal only, or as to both principal and interest, or otherwise as the board may determine.

SEC. 15. Section 90042 of the Education Code is amended to read:

90042. Bonds may be callable upon any terms, conditions, and upon any notice as the board may determine, and upon the payment of the premium as may be fixed by the board in the proceedings for the issuance of the bonds. No bond is subject to call or redemption prior to its fixed maturity date unless the right to exercise the call is expressly stated on the face of the bond.

SEC. 16. Section 90043 of the Education Code is amended to read:

90043. The board may provide for the payment of the principal and interest of bonds at any place within or without the State of California, and in specified coin or currency of the United States.

SEC. 17. Section 90044 of the Education Code is amended to read:

90044. The board may provide for the execution and authentication of bonds and notes by the manual, lithographed or printed facsimile signature of officers of the board and, in the case of bonds, by additional authentication by the Treasurer as trustee. If any of the officers whose signatures or countersignatures appear upon the notes, bonds or coupons cease to be officers before the delivery of the notes, bonds or coupons, their signatures or countersignatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the notes, bonds or coupons.

SEC. 18. Section 90045 of the Education Code is amended to read:

90045. Bonds shall bear dates prescribed by the board. Bonds may be serial bonds or sinking fund bonds with those maturities as the board may determine. No bond by its terms shall mature in more than 50 years from its own date and, in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

SEC. 19. Section 90046 of the Education Code is amended to read:

90046. Immediately after the adoption of a resolution by the board directing the preparation of any bonds or notes authorized under this article, the Treasurer shall prepare the requisite number of suitable bonds or notes of the denominations, and in accordance with the specifications contained in such resolution.

SEC. 20. Section 90047 of the Education Code is amended to read:

90047. When the bonds authorized to be issued under this article shall be duly executed, they shall be sold by the Treasurer, for cash, in those parcels and numbers as the Treasurer shall be directed by a resolution adopted by the board. Before offering any of the bonds for sale, the Treasurer shall detach therefrom all coupons, if any, which have matured or will mature before the day fixed for the sale.

SEC. 21. Section 90048 of the Education Code, as amended by Chapter 33 of the Statutes of 1984, is amended to read:

90048. (a) Bonds and notes may be sold at either public or private sale. The board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds or notes. The Treasurer, when authorized by resolution of the board may sell bonds and notes at less than their par or face value, but no bond or note may be sold at a price below the par or face value thereof which would result in a sale price yielding to the purchaser an average of more than 12 percent per annum, payable semiannually, according to standard tables of bond values.

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

SEC. 22. Section 90048 of the Education Code, as added by Section 10 of Chapter 333 of the Statutes of 1981, is amended to read:

90048. Bonds and notes may be sold at either public or private sale. The board may fix terms and conditions for the sale or other disposition of any authorized issue of bonds or notes. The Treasurer, when authorized by resolution of the board, may sell bonds and notes at less than their par or face value, but no bond or note may be sold at a price below the par or face value thereof which would result in a sale price yielding to the purchaser an average of more than 10 percent per annum, payable semiannually, according to standard tables of bond values.

This section shall become operative January 1, 1990.

SEC. 23. Section 90051 of the Education Code is amended to read:

90051. The board may provide that notes or bonds and the interest thereon shall be secured by all or by part of revenues of a project upon the basis of which the notes or bonds are issued or authorized to be issued, and shall constitute a lien upon the revenues of the project as may be provided for in the notes or in any indenture.

SEC. 24. Section 90052 of the Education Code is amended to read:

90052. Pending the actual issuance or delivery of revenue bonds, the board may issue temporary or interim bonds, certificates or receipts of any denomination whatsoever, and with or without coupons, to be exchanged for definitive bonds when ready for delivery.

SEC. 25. Section 90053 of the Education Code is amended to read:

90053. The board may provide for the replacement of lost, destroyed or mutilated notes, bonds, and coupons.

SEC. 26. Section 90056 of the Education Code is amended to read:

90056. The board may provide for the issuance, sale, or exchange of refunding bonds for the purpose of redeeming or retiring any revenue bonds issued under the provisions of this article. All provisions of this article applicable to the issuance of revenue bonds are applicable to the funding or refunding bonds and to the issuance, sale or exchange thereof.

SEC. 27. Section 90059 of the Education Code is amended to read:

90059. Before issuing any bond or bonds pursuant to the provisions of this article, the board shall by resolution declare the purpose for which the proceeds of the bonds proposed to be issued shall be expended and shall specify the maximum amount of bonds to be issued or sold for this purpose, and bonds shall not be issued or sold for this purpose in an amount exceeding that specified maximum except with the consent of bondholders, pursuant to amendment or modification of an indenture, as provided in Section 90034 of this article. Nothing in this section shall be construed to prevent the board from amending any resolution of this type prior to the issuance of bonds authorized thereby to increase or decrease the maximum amount of bonds to be issued or sold. The issuance of bonds for one or more projects may be included in a single resolution of authorization.

SEC. 28. Section 90066 of the Education Code is amended to read:

90066. The board may insure against public liability or property damage. The board may provide in an indenture for the carrying of this or any other insurance in the amount and of the character as it shall determine, and for the payment of the premiums thereon.

SEC. 29. Section 90070 of the Education Code is amended to read:

90070. The board may include in an indenture those limitations as to competitive projects, both as to location and comparative rentals, as may be deemed necessary or desirable for the security of revenue bonds issued pursuant to this article.

SEC. 30. Section 90071 of the Education Code is amended to read:

90071. The board may also include in an indenture a covenant that no project acquired, constructed or completed from the proceeds of revenue bonds issued under the provisions of this article shall be used without charge therefor or any facilities thereof be furnished free of charge to any person.

SEC. 31. Section 90073 of the Education Code is amended to read:

90073. The proceeds from the sale of all bonds and notes authorized under the provisions of this article, except those proceeds used to redeem outstanding bonds or notes, shall be deposited forthwith by the Treasurer, on order of the Controller, in the State Treasury to the credit of a fund to be designated as the California State University Dormitory Construction Fund, which fund is hereby created. The money in the construction fund shall be expended, pursuant to claims filed by the board with the Controller, for the purposes authorized by this article, or as provided in the indenture or notes, and for any other purposes, subject to the restrictions provided by law, by the notes, or by the indenture, as may be

authorized by resolution of the board. In carrying out these purposes, the money may be used to make loans to builders and developers for the establishment, acquisition, or construction of projects, to acquire leasehold interests in projects, or otherwise to provide funds for projects in any manner as the board may authorize by resolution. Moneys required to meet the costs of acquisition, construction, improvement, equipment, furnishing, financing, or refinancing of any project authorized by this article and all costs incident thereto shall be paid from the construction fund as herein provided upon claim filed by the board and after audit by the Controller in the manner provided by law and upon warrants drawn by the Controller.

SEC. 32. Section 90074 of the Education Code is amended to read:

90074. To the extent and in the manner provided in the indenture or in a resolution authorizing the issuance of notes, all revenues received from the operation of any project acquired or constructed by the board under the provisions of this article shall be transmitted by the board at least once in every calendar month, to the Treasurer. On order of the Controller, the Treasurer shall deposit the revenues in the State Treasury to the credit of the California State University Dormitory Revenue Fund, which fund is hereby created. Moneys in the California State University Dormitory Revenue Fund shall be used to pay the costs of operation and maintenance of the projects authorized by this article, including refunds authorized by Section 90069, to provide the amounts required for interest and redemption of notes and bonds as provided in this article, and for any other purposes authorized by resolution of the board, subject to any restrictions provided by law, a resolution authorizing the issuance of notes, or the indenture.

SEC. 33. Section 90075 of the Education Code is amended to read:

90075. For the payment of the principal and interest of the notes and bonds authorized to be issued under this article, an interest and redemption fund in the State Treasury is hereby created, to be designated the California State University Dormitory Interest and Redemption Fund. From the money deposited in the California State University Dormitory Construction Fund, the Treasurer, on order of the Controller, shall transfer to the California State University Dormitory Interest and Redemption Fund the sums required to pay the interest as it becomes due on all notes and bonds sold and outstanding for the construction or acquisition of a particular project authorized under this article during the period of actual construction or acquisition thereof and during the period thereafter as may be provided in the indenture or authorized by resolution of the board. The Treasurer, on order of the Controller, shall thereafter transfer from the California State University Dormitory Revenue Fund to the California State University Dormitory Interest and Redemption Fund the sums required to pay the interest on the notes and bonds and redeem the principal thereof as the interest payments and note and bond redemptions fall due for

all notes and bonds issued under the provisions of this article.

SEC. 34. Section 90076 of the Education Code is amended to read:

90076. Any balance remaining in any of the funds created by this article after payment of all costs, expenses, and charges authorized to be expended therefrom, may be allocated and used for other purposes incidental to the acquisition, construction, furnishing, equipping, operation and maintenance of such projects authorized under the provisions of this article as the board may determine.

SEC. 35. Section 90077 of the Education Code is amended to read:

90077. Moneys in the California State University Dormitory Construction Fund may be invested by the board subject only to limitations which may be provided in any resolution authorizing the issuance of revenue bond anticipation notes or in any indenture providing for the issuance of revenue bonds. All securities or other investments made under the provisions of this article shall be held by the Treasurer as custodian thereof. All interest or other earnings received pursuant to the investments shall be collected by the Treasurer, and, on order of the Controller, shall be deposited in the State Treasury to the credit of the fund from which interest or other earnings are derived.

SEC. 36. Section 1.5 of this bill incorporates amendments to Section 90011 of the Education Code proposed by both this bill and AB 3100. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 90011 of the Education Code, and (3) this bill is enacted after AB 3100, in which case Section 1 of this bill shall not become operative.

CHAPTER 741

An act to amend Sections 40420, 40423, and 40424 of, and to add Section 40421.5 to, the Health and Safety Code, relating to the South Coast Air Quality Management District.

[Approved by Governor August 31, 1988. Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 40420 of the Health and Safety Code is amended to read:

40420. (a) The south coast district shall be governed by a district board consisting of 12 members appointed as follows:

(1) One member appointed by the Governor, with the advice and consent of the Senate.

(2) One member appointed by the Senate Committee on Rules.

(3) One member appointed by the Speaker of the Assembly.

(4) Four members appointed by the boards of supervisors of the

counties in the south coast district. Each board of supervisors shall appoint one of these members, who shall be one of the following:

(A) A member of the board of supervisors of the county making the appointment.

(B) A mayor or member of a city council from a city in the portion of the county making the appointment that is included in the south coast district.

(5) Three members appointed by cities in the south coast district. The city selection committee of Orange, Riverside, and San Bernardino Counties shall each appoint one of these members, who shall be either a mayor or a member of the city council of a city in the portion of the county included in the south coast district.

(6) A member appointed by the cities of the western region of Los Angeles County, consisting of the Cities of Agoura Hills, Avalon, Beverly Hills, Carson, Compton, Culver City, El Segundo, Gardena, Hawthorne, Hermosa Beach, Hidden Hills, Inglewood, Lawndale, Lomita, Los Angeles, Manhattan Beach, Palos Verdes Estates, Rancho Palos Verdes, Redondo Beach, Rolling Hills, Rolling Hills Estates, Santa Monica, Torrance, West Hollywood, and Westlake Village. These cities shall organize as a city selection committee for the purposes of subdivision (f). The member appointed shall be either a mayor or a member of the city council of a city in the western region.

(7) A member appointed by the cities of the eastern region of Los Angeles County, consisting of the cities in Los Angeles County that are not listed in paragraph (6). These cities shall organize as a city selection committee for the purposes of subdivision (f). The member appointed shall be either a mayor or a member of the city council of a city in the eastern region.

(b) All members shall be appointed on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems of the South Coast Air Basin.

(c) The member appointed by the Governor shall be either a physician who has training and experience in the health effects of air pollution, an environmental engineer, a chemist, a meteorologist, or a specialist in air pollution control.

(d) Each member shall be appointed on the basis of his or her ability to attend substantially all meetings of the south coast district board, to discharge all duties and responsibilities of a member of the south coast district board on a regular basis, and to participate actively in the affairs of the south coast district. No member may designate an alternate for any purpose or otherwise be represented by another in his or her capacity as a member of the south coast district board.

(e) Each appointment by a board of supervisors shall be considered and acted on at a duly noticed, regularly scheduled hearing of the board of supervisors, which shall provide an

opportunity for testimony on the qualifications of the candidates for appointment.

(f) The appointments by cities in the south coast district shall be considered and acted on at a duly noticed meeting of the city selection committee, which shall meet in a government building and provide an opportunity for testimony on the qualifications of the candidates for appointment. The appointment shall be made by not less than two-thirds of all the cities in the portion of the county included in the south coast district having not less than two-thirds of the population of all the cities in the portion of the county included in the south coast district. Population shall be determined on the basis of the most recent verifiable census data developed by the Department of Finance. Persons residing in unincorporated areas or areas of a county outside the south coast district shall not be considered for the purposes of this subdivision.

(g) The members appointed by the Senate Committee on Rules and the Speaker of the Assembly shall have one or more of the qualifications specified in subdivision (c) or shall be a public member. No such member appointed may be a locally elected official.

(h) All members shall be residents of the district.

SEC. 2. Section 40421.5 is added to the Health and Safety Code, to read:

40421.5. For the purpose of complying with Section 50271 of the Government Code, each mayor shall designate a member of the city's legislative body to attend and vote in his or her place and as his or her representative if the mayor is unable to attend any meeting of the city selection committee to be held pursuant to this article. If a mayor does not make this designation within 10 days preceding a meeting of the city selection committee, the legislative body shall designate one of its own members to represent the city.

SEC. 3. Section 40423 of the Health and Safety Code is amended to read:

40423. The south coast district board shall provide for the frequency and location of its meetings, except that no meeting of the south coast district board shall take place without public notice given at least seven days in advance of the scheduled date of the meeting or, as to special and emergency meetings, without complying with the requirements of Section 54956 or 54956.5, respectively, of the Government Code.

SEC. 4. Section 40424 of the Health and Safety Code is amended to read:

40424. (a) Except as provided in subdivision (b), seven members of the south coast district board shall constitute a quorum, and no official action shall be taken by the south coast district board except in the presence of a quorum and upon the affirmative votes of a majority of the members of the south coast district board.

(b) Notwithstanding subdivision (a), whenever there are two or more vacancies on the south coast district board, six members shall

constitute a quorum, and the two vacant positions shall not be counted toward the majority required for official action by the south coast district board. Thereafter, whenever at least one of those vacancies is filled, the quorum and voting requirements of subdivision (a) shall apply.

SEC. 5. For the purposes of allocating terms, pursuant to subdivision (b) of Section 40422 of the Health and Safety Code, resulting from the addition of a 12th seat to the governing board of the South Coast Air Quality Management District by the amendment to Section 40420 of the Health and Safety Code by this act, the members appointed pursuant to paragraphs (6) and (7) of subdivision (a) of Section 40420 shall classify themselves by lot so that the term of one expires January 15, 1990, and the term of the other expires January 15, 1992.

SEC. 6. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 742

An act to add Section 1835 to the Probate Code, relating to conservatorships, and making an appropriation therefor.

[Approved by Governor August 31, 1988 Filed with Secretary of State August 31, 1988]

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

SECTION 1. Section 1835 is added to the Probate Code, to read:

1835. (a) Every county, either through the appropriate court or the office of the public conservator, shall provide all private conservators with written information concerning a conservator's rights, duties, limitations, and responsibilities pursuant to this part.

(b) The information to be provided shall include, but need not be limited to, the following:

(1) The rights, duties, limitations, and responsibilities of a conservator.

(2) The rights of a conservatee.

(3) How to assess the needs of the conservatee.

(4) How to use community-based services to meet the needs of the conservatee.

(5) How to ensure that the conservatee is provided with the least restrictive possible environment.

(6) The court procedures and processes relevant to

conservatorships.

(7) The procedures for inventory and appraisement, and the filing of accountings.

(c) An information package shall be developed by the Judicial Council, after consultation with the following organizations or individuals:

(1) The California State Association of Public Administrators, Public Guardians, and Public Conservators, or other comparable organizations.

(2) The State Bar.

(3) Individuals or organizations, approved by the Judicial Council, who represent court investigators, specialists with experience in performing assessments and coordinating community-based services, and legal services programs for the elderly.

(d) The failure of any court, public guardian, public officer, or public agency, or any employee or agent thereof, to provide information to a conservator as required by this section shall not operate to (1) relieve the conservator of any of his or her duties as required by this part, or (2) make the court, public guardian, public officer, or public agency, or the employee or agent thereof, liable, in either a personal or official capacity, for any damage to a conservatee, conservator, the conservatorship of a person or an estate, or any other person or entity.

The information package shall be made available to individual counties. The Judicial Council shall periodically update the information package when changes in the law warrant revision. The revisions shall be provided to individual counties.

(d) To cover the costs of printing and mailing, a county may charge each private conservator a fee for providing the written information required by this section, not to exceed ten dollars ($10).

SEC. 2. The sum of seventy-five thousand dollars ($75,000) is hereby appropriated from the General Fund to the Judicial Council for the purposes of this act.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 743

An act to add Section 22240 to the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 22240 is added to the Education Code, to read:

22240. The board shall develop an alternative retirement plan to be known as Plan II. For the purposes of this section, Plan I refers to the retirement plan set out in this part.

The benefits to be included in Plan II would provide a member, when coupled with Social Security, with an adequate retirement benefit.

Plan II shall be actuarially sound and funded within the rates presently being contributed by the school employer and the employee.

The Legislature reserves the right to modify the benefits contained in Plan II at any future date if the cost of the plan increases as a result of changes in actuarial assumptions.

The board shall submit a recommendation to the Legislature by March 1, 1989.

SEC. 2. There is hereby appropriated from the Teachers' Retirement Fund to the State Teachers' Retirement System the amount of one hundred thousand dollars ($100,000) for expenditure for the purpose of implementing Section 22240 of the Education Code, as enacted by this act.

CHAPTER 744

An act to amend Section 13895.8 of the Government Code, relating to federal expenditures.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 13895.8 of the Government Code is amended to read:

13895.8. This part shall remain in effect until January 1, 1991, and, as of that date is repealed unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

CHAPTER 745

An act to add Section 14088.17 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 14088.17 is added to the Welfare and Institutions Code, to read:

14088.17. (a) The department may contract under this article, on an exclusive or nonexclusive basis, with an established professional organization with a membership which consists of physicians who engage in the types of practices or who provide services in the locations set forth in subdivision (a) of Section 14088.

(b) (1) A contract under this section shall be implemented in a manner consistent with any federal waivers which are obtained by the department to enable such an arrangement.

(2) Where federal waivers permit restrictions on beneficiary freedom of choice, the contract shall provide covered Medi-Cal beneficiaries with an initial choice of a primary care physician and a procedure through which a beneficiary may change primary care physicians with good cause.

(c) This section shall apply only to the provision of services to beneficiaries who, for purposes of Medi-Cal eligibility determination, are residents of Lake County, Mendocino County, or Sonoma County.

CHAPTER 746

An act to add Sections 11502.5 and 12986 to the Food and Agricultural Code, relating to pest control.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 11502.5 is added to the Food and Agricultural Code, to read:

11502.5. The director may adopt regulations to establish the minimum requirements of education, continuing education, training, experience, and examination for applicants for any license or certificate, or renewal of any license or certificate, issued by the director pursuant to this division or Chapter 3.6 (commencing with Section 14151) of Division 7.

SEC. 2. Section 12986 is added to the Food and Agricultural Code, to read:

12986. (a) The director shall approve programs for training persons who handle or apply pesticides in aerial pest control operations. The training programs shall be consistent with, but not limited to, this article and may include participation by trainees in field practices or exercises dealing with the safe handling and application of pesticides and may include performance measurement of the practices and exercises.

(b) The approved training programs shall be conducted by industry qualified instructors. Industry qualified instructors are persons approved by the director.

(c) All persons who successfully complete an approved training program shall be issued a certificate of completion by industry qualified instructors, which shall be available for inspection by the director or a commissioner, or his or her representative. When the person completing an approved training program attended the program at the request or expense of the person's employer, the employer shall be provided a copy of the certificate of completion, which also shall be available for inspection by the director or a commissioner, or his or her representative.

CHAPTER 747

An act to amend Section 17053.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 17053.5 of the Revenue and Taxation Code is amended to read:

17053.5. (a) In the case of qualified renters, there shall be allowed credits against their "net tax" (as defined in Section 17039). The credit shall be in the amount of one hundred thirty-seven dollars ($137) for married couples filing joint returns, heads of household and surviving spouses (as defined in Section 17046), and sixty dollars ($60) for other individuals.

Except as provided in subdivision (b), a husband and wife shall receive but one credit under this section. If the husband and wife file separate returns, the credit may be taken by either or equally divided between them, except as follows:

(1) If one spouse was a resident for the entire taxable year and the other spouse was a nonresident for part or all of the taxable year, the resident spouse shall be allowed one-half the credit allowed to married persons and the nonresident spouse shall be permitted

one-half the credit allowed to married persons, prorated as provided in subdivision (e).

(2) If both spouses were nonresidents for part of the taxable year, the credit allowed to married persons shall be divided equally between them subject to the proration provided in subdivision (e).

(b) In the case of a husband and wife, if each spouse maintained a separate place of residence and resided in this state during the entire taxable year, each spouse will be allowed one-half the full credit allowed to married persons provided in subdivision (a).

(c) For purposes of this section, a "qualified renter" means an individual who:

(1) Was a resident of this state, as defined in Section 17014, and

(2) Rented and occupied premises in this state which constituted his or her principal place of residence during at least 50 percent of the taxable year.

(d) The term "qualified renter" does not include any of the following:

(1) An individual who for more than 50 percent of the taxable year rented and occupied premises which were exempt from property taxes, except that an individual, otherwise qualified, shall be deemed a qualified renter if he or she or his or her landlord pays possessory interest taxes, or the owner of those premises makes payments in lieu of property taxes which are substantially equivalent to property taxes paid on properties of comparable market value.

(2) An individual whose principal place of residence for more than 50 percent of the taxable year is with any other person who claimed such individual as a dependent for income tax purposes.

(3) An individual who has been granted or whose spouse has been granted the homeowners' property tax exemption during the taxable year. This paragraph shall not apply in the case of an individual whose spouse has been granted the homeowners' property tax exemption if each spouse maintained a separate residence for the entire taxable year.

(e) Any otherwise qualified renter who is a nonresident for any portion of the taxable year shall claim the credits set forth in subdivision (a) at the rate of one-twelfth of those credits for each full month that individual resided within this state during the taxable year.

(f) Every person claiming the credit provided in this section shall, as part of that claim, and under penalty of perjury, furnish that information as the Franchise Tax Board prescribes on a form supplied by the board.

(g) The credit provided in this section shall be claimed on returns in the form as the Franchise Tax Board may from time to time prescribe.

(h) For the purposes of this section, the term "premises" means a house or a dwelling unit used to provide living accommodations in a building or structure and the land incidental thereto, but does not include land only, except in the case where the dwelling unit is a

mobilehome. The credit shall not be allowed for any taxable year for the rental of land upon which a mobilehome is located if the mobilehome has been granted a homeowners' exemption under Section 218 in that year.

(i) In the case of qualified renters whose credits provided in this section exceed their tax liability computed under this part the excess shall be credited against other amounts due, if any, from the qualified renter and the balance, if any, shall be refunded to the qualified renter.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 748

An act to amend Section 8698 of the Government Code, relating to emergency shelter.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 8698 of the Government Code is amended to read:

8698. For purposes of this chapter, the following definitions shall apply:

(a) "Political subdivision" includes the state, any city, city and county, county, special district, or school district or public agency authorized by law.

(b) "Governing body" means the following:

(1) The Governor for the state.

(2) The legislative body for a city or city and county.

(3) The board of supervisors for a county.

(4) The governing board or board of trustees for a district or other public agency.

(5) An official designated by ordinance or resolution adopted by a governing body, as defined in paragraph (2), (3), or (4).

(c) "Public facility" means any facility of a political subdivision including parks, schools, and vacant or underutilized facilities which are owned, operated, leased, or maintained, or any combination thereof, by the political subdivision through money derived by taxation or assessment.

(d) "Declaration of a shelter crisis" means the duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety.

CHAPTER 749

An act to amend Sections 19352, 19352.5, 19352.8, 19353.5, 19354.1, 19356.6, and 19356.7 of the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 19352 of the Welfare and Institutions Code is amended to read:

19352. As used in this chapter:

(a) "Habilitation services" means those community-based services purchased or provided for adults with developmental disabilities including supported employment or competitive employment, to prepare and maintain them at their highest level of vocational functioning, or to prepare them for referral to vocational rehabilitation services.

(b) "Individual program plan" means the overall plan developed by a regional center pursuant to Section 4646.

(c) "Habilitation component" means the plan developed for each eligible person for whom services are purchased under this chapter.

(d) "Department" means the Department of Rehabilitation.

(e) "Work-activity program" includes, but is not limited to, sheltered workshops, or workshops or work-activity centers accredited under departmental regulations.

(f) "Habilitation team" means a group, which shall be established for each work-activity program client, composed of the following members:

(1) The regional center case manager.

(2) The work-activity program case-responsible person.

(3) A habilitation specialist designated by the department.

(4) The work-activity program client, and where appropriate, his or her parent, legal guardian, or conservator.

SEC. 2. Section 19352.5 of the Welfare and Institutions Code is amended to read:

19352.5. (a) The habilitation team shall have the following responsibilities:

(1) Determining initial eligibility.

(2) Developing an individual habilitation component.

(3) Reviewing continued eligibility.

In the event that the habilitation specialist disagrees with the team, the specialist shall make the final decision subject to appeal to the department by the individual or his or her designated representative.

(b) The habilitation specialist shall substantiate the decision by doing all of the following:

(1) Stating in writing the reasons for disagreement and the decision.

(2) Stating the connection between these reasons and specific eligibility criteria.

(3) Stating that the decision is not made for fiscal reasons.

SEC. 3. Section 19352.8 of the Welfare and Institutions Code is amended to read:

19352.8. Only decisions made by the habilitation team or habilitation specialist with respect to eligibility for services or development of the individual habilitation component are subject to appeal. If a work-activity program client appeals a decision made pursuant to Section 19353.5 to the department, the individual shall, pending the outcome of the appeal, continue to receive the same level of services provided prior to appeal if the client entered the work-activity program from a day program paid for by a regional center or provided by a state hospital and is unable to return to the program.

If a work-activity program client appeals a decision made pursuant to Section 19354.1 to the department, the client shall, pending the outcome of the appeal, continue to receive the same level of service provided prior to appeal.

SEC. 4. Section 19353.5 of the Welfare and Institutions Code is amended to read:

19353.5. When the department has made its determination of eligibility pursuant to subdivision (e) of Section 19353, the individual shall be placed in a work-activity program, and shall be deemed presumptively eligible for the period not to exceed 90 days. During this 90-day period, the work-activity program in which the person is placed shall evaluate the performance of the individual in all of the following areas:

(a) Appropriate behavior to safely conduct himself or herself in a work setting.

(b) Adequate attention span to reach a productivity level in paid work.

(c) Ability to understand simple instructions within a reasonable length of time.

(d) Ability to communicate basic needs and understand basic receptive language.

(e) Attendance level.

During this 90-day period, the habilitation team shall, utilizing the findings of the work-activity program made pursuant to this section, determine the initial eligibility of the individual.

SEC. 5. Section 19354.1 of the Welfare and Institutions Code is amended to read:

19354.1. In developing the habilitation component, the habilitation team shall develop specific and measurable objectives in order to determine whether the individual demonstrates ability to reach or maintain individual habilitation component goals in at least all of the following areas:

(a) Participation in paid work for a specified period of time.
(b) Obtaining or sustaining a productivity rate.
(c) Obtaining or sustaining a specified attendance level.
(d) Demonstration of appropriate behavior for a work setting.

SEC. 6. Section 19356.6 of the Welfare and Institutions Code is amended to read:

19356.6. (a) The terms used in this section shall have the following meanings:

(1) "Supported employment" means substantial paid work that is integrated in the community for persons with developmental disabilities whose vocational handicap is so severe that they would be unable to achieve this employment without specialized services and would not be able to retain this employment without an appropriate level of ongoing postemployment support services.

(2) "Substantial paid work" means work of at least 20 hours per week which is paid for in accordance with applicable standards set forth by the federal Department of Labor and the State Department of Industrial Relations.

(3) "Integrated work" means the engagement of an employee with a disability in work in a natural community employment setting, including, but not limited to, work crews, enclaves, and individual placements, in which the degree of integration is measured by the extent to which the disabled employee has opportunities to interact with nondisabled individuals other than those providing direct support services to the disabled employee.

(4) "Work crew" means a group of workers in the community typically containing no more than eight persons with developmental disabilities who engage in paid work together on service contracts in the community.

(5) "Enclave" means a group typically containing no more than eight persons with developmental disabilities that engages in paid work at employer sites in the community and represents a minority of the employer work force.

(6) "Individual placement" means placing a person with a developmental disability with an employer in the community and providing specialized services which are intended to lead to employer-paid and employer-supervised employment, and which decrease as the individual adjusts to the job; and ongoing postemployment services necessary for the individual to retain the job.

(7) "Allowable supported employment services" means the services approved in the individual habilitation component and provided, to the extent allowed by the Habilitation Services Program, for the purpose of achieving supported employment as an outcome for persons with developmental disabilities, which may include any of the following:

(A) Work-activity program staff time spent conducting task analysis on a supported employment opportunity for a specific client or group of clients.

(B) Work-activity program staff time spent in the direct supervision or training of a client or clients while they are engaged in integrated work designed to achieve supported employment unless other arrangements for client supervision, such as employer supervision reimbursed by the work-activity program, are approved by the Habilitation Services Program.

(C) Social skills training which is necessary to ensure job adjustment and retention, and which is provided in an integrated setting, unless otherwise approved by the Habilitation Services Program.

(D) Training in certain independent living skills, such as independent travel or money management, which is necessary to ensure job adjustment and retention and which is provided in the community, unless otherwise approved by the Habilitation Services Program.

(E) Counseling with family, care providers, or others to ensure necessary support to clients' job adjustment or to overcome problems affecting their job performance.

(F) Direct action to advocate on behalf of a client to resolve problems affecting the client's work adjustment or retention of an integrated job.

(G) Intervention with the employer to review a client's job performance, resolve job problems or facilitate the employer's hiring of the client as an employee.

(H) In the case of work crews, the time crew members spend preparing for and ending the day's work.

(I) In the case of individual placements, job development to the extent authorized by the Habilitation Services Program, and ongoing postemployment support services needed to ensure the client's retention of the job.

(J) In the case of enclaves, the staff time spent obtaining and arranging the enclave for a specific group of clients.

(b) Notwithstanding subdivision (c) of Section 19353, the department's habilitation services and vocational rehabilitation programs may mutually serve individuals whose individual written rehabilitation program provides for placement into supported employment.

(c) (1) Commencing in the 1986–87 fiscal year, the Habilitation Services Program shall set hourly rates for supported employment in accordance with this section. The Habilitation Services Program shall apply those rates to those work-activity programs or program components of work-activity programs approved by the department to provide community-integrated services under former paragraph (3) of subdivision (d) of Section 19356.5, and to new programs or components approved by the Habilitation Services Program to provide supported employment services following enactment of this section. Both of these categories of programs or components shall be required to comply with the criteria set forth in subdivision (b) of Section 19356.7 to receive approval from the Habilitation Services

Program.

(2) The hourly rate for work crews and enclaves shall be four dollars ($4) per client or, in the case of new components of existing programs, the work-activity program's daily rate converted to an hourly rate according to the formula set forth in subdivision (d), whichever hourly rate is the higher. In addition, the Habilitation Services Program may, at its discretion, negotiate a higher hourly rate for work crews or enclaves, based upon a submitted budget that is approved by the Habilitation Services Program, when there is documentation that clearly demonstrates a need for a higher rate because of the nature and severity of the disabilities of the clients served, as determined by the Habilitation Services Program.

(3) The hourly rate for individual placement shall be twenty dollars ($20) per client for one-to-one services. If more than one client is receiving placement services simultaneously at the same site, the amount to be reimbursed per hour of service provided shall not exceed twenty dollars ($20) regardless of the number of clients receiving service during the hour.

(4) These hourly rates shall be subject to rate adjustments provided by law commencing with the 1987–88 fiscal year.

(d) (1) When a client receives traditional work-activity services and supported employment services during the same payment period, the Habilitation Services Program shall convert the daily rate for the traditional work-activity services into an hourly rate for the purpose of paying for those traditional work-activity services received by that client. In its conversion of the daily rate into any hourly rate the Habilitation Services Program shall use the formula in paragraph (2).

(2) The daily rate of the work-activity program shall be divided by the number of hours in the program day of the traditional work-activity program during the historical period on which its rate is based, or as of the date the Habilitation Services Program approved the work-activity program as a new provider of habilitation services plus 5 percent.

(e) This section shall become inoperative on October 1, 1990, and, as of January 1, 1991, is repealed unless a later enacted statute which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. Section 19356.7 of the Welfare and Institutions Code is amended to read:

19356.7. (a) Proposals for funding of supported employment programs and components by the Habilitation Services Program shall be submitted to the Habilitation Services Program and shall contain sufficient information to enable the Habilitation Services Program to act on the proposal under this section.

(b) Provided that sufficient funding is available to finance services by supported employment programs and components, the Habilitation Services Program may approve or disapprove proposals based on all of the following criteria:

(1) The need for a supported employment program or component.

(2) The capacity of the program to deliver supported employment services effectively.

(3) The ability of the program to comply with accreditation and certification requirements of the Habilitation Services Program where applicable.

(4) A profile of an average client in the program or component, showing the planned progress toward self-reliance as an employee, measured, as appropriate, in terms of decreasing support services.

(5) The ability of the program to achieve integrated substantial paid work on the average for clients served.

(c) The Habilitation Services Program may purchase supported employment services at the rates authorized in Section 19356.6 only from supported employment programs or components approved under this section.

(d) For purposes of evaluating the effectiveness of the entire program, and individual supported employment programs or components, the Habilitation Services Program may monitor supported employment programs or components to determine whether the performance agreed upon in the approved proposal is being achieved. When the performance of a supported employment program or component does not comply with the criteria according to which it was approved for funding pursuant to subdivision (b), the Habilitation Services Program may establish prospective performance criteria for the program or component, with which the program or component shall comply as a condition of continued funding.

(e) The department may adopt the regulations it deems necessary to implement Sections 19352, 19356.6, and this section.

(f) This section shall become inoperative on October 1, 1990, and, as of January 1, 1991, is repealed unless a later enacted statute which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 750

An act to add Sections 1569.152, 1569.153, and 1569.154 to the Health and Safety Code, relating to residential care facilities for the elderly.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Serious concerns have been raised regarding the problem of theft and loss of residents' personal belongings in residential care facilities for the elderly throughout California.

(b) There is presently inadequate enforcement or monitoring in facilities to help safeguard residents' valuables.

(c) Therefore, it is the intent of the Legislature, while recognizing that the problem cannot be completely eliminated, to establish requirements that facilities shall follow in an attempt to significantly reduce the incidence of theft and loss.

SEC. 2. Section 1569.152 is added to the Health and Safety Code, to read:

1569.152. (a) A residential care facility for the elderly, as defined in Section 1569.2, which fails to make reasonable efforts to safeguard resident property shall reimburse a resident for or replace stolen or lost resident property at its then current value. The facility shall be presumed to have made reasonable efforts to safeguard resident property if the facility has shown clear and convincing evidence of its efforts to meet each of the requirements specified in Section 1569.153. The presumption shall be a rebuttable presumption, and the resident or the resident's representative may pursue this matter in any court of competent jurisdiction.

(b) A civil penalty shall be levied if the residential care facility for the elderly has no program in place or if the facility has not shown clear and convincing evidence of its efforts to meet all of the requirements set forth in Section 1569.153. The State Department of Social Services shall issue a deficiency in the event that the manner in which the policies have been implemented is inadequate or the individual facility situation warrants additional theft and loss protections.

(c) The department shall not determine that a facility's program is inadequate based solely on the occasional occurrence of theft or loss in a facility.

SEC. 3. Section 1569.153 is added to the Health and Safety Code, to read:

1569.153. A theft and loss program shall be implemented by the residential care facilities for the elderly within 90 days after January 1, 1989. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen resident property with a value of twenty-five dollars ($25) or more within 72 hours of the discovery of the loss or theft and, upon request, the documented theft and loss record for the past 12 months shall be made available to the State Department of Social Services, law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.
(2) Its estimated value.
(3) The date and time the theft or loss was discovered.
(4) If determinable, the date and time the loss or theft occurred.
(5) The action taken.

(d) A written resident personal property inventory is established upon admission and retained during the resident's stay in the residential care facility for the elderly. Inventories shall be written in ink, witnessed by the facility and the resident or resident's representative, and dated. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. All additions to an inventory shall be made in ink, and shall be witnessed by the facility and the resident or resident's representative, and dated. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate written notice to the public administrator of the county upon the death of a resident whose heirs are unable or unwilling to claim the property as specified in Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe resident property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12

months shall be made available to the State Department of Social Services and law enforcement agencies.

(j) Maintenance of a secured area for residents' property which is available for safekeeping of resident property upon the request of the resident or the resident's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1569.152 and 1569.154 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(*l*) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

(m) Only those residential units in which there are no unrelated residents and where the unit can be secured by the resident or residents are exempt from the requirements of this section.

SEC. 4. Section 1569.154 is added to the Health and Safety Code, to read:

1569.154. No provision of a contract of admission, which includes all documents which a resident or his or her representative is required to sign at the time of, or as a condition of, admission to a residential care facility for the elderly, shall require or imply a lesser standard of responsibility for the personal property of residents than is required by law.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 751

An act to amend Sections 11301, 11513, 11610, 11712, and 11812 of, and to add Sections 11111.2, 11217.5, and 11302.2 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 11111.2 is added to the Vehicle Code, to read:

11111.2. Any owner licensed under this chapter who has closed

his or her established place of business or any operator or instructor currently or previously licensed under this chapter who no longer resides at the address last filed with the department, may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, in the case of an owner, or at that residence, in the case of an operator or instructor, unless the person has notified the department in writing of another address where service may be made.

SEC. 2. Section 11217.5 is added to the Vehicle Code, to read:

11217.5. Any owner licensed under this chapter who has closed his or her established place of business or any operator or instructor currently or previously licensed under this chapter who no longer resides at the address last filed with the department, may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, in the case of an owner, or at that residence, in the case of an operator or instructor, unless the person has notified the department in writing of another address where service may be made.

SEC. 3. Section 11301 of the Vehicle Code is amended to read:

11301. Every vehicle verifier shall make application to the department upon the appropriate form, accompanied by a good and sufficient bond, approved as to form by the Attorney General, in the amount of five thousand dollars ($5,000) with corporate surety thereon, duly licensed to do business within the State of California.

(a) The department shall prescribe and provide forms to be used for application for permits to be issued under the terms and provisions of this chapter and require of applicants information including, but not limited to, residence address, fingerprints, and personal history statements touching on and concerning the applicant's character, honesty, integrity, and reputation as it may consider necessary.

(b) Upon receipt of an application in proper form accompanied by the appropriate fee, the department shall within 120 days, make a thorough investigation of the information contained in the application.

SEC. 4. Section 11302.2 is added to the Vehicle Code, to read:

11302.2. (a) Every person licensed under this chapter shall report to the department every change of residence address within 10 days of the change.

(b) Any person currently or previously licensed under this chapter who no longer resides at the address last filed with the department may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that residence, unless the person has notified the department in writing of another address where service may be made.

SEC. 5. Section 11513 of the Vehicle Code is amended to read:

11513. (a) The department shall not issue an automobile dismantler's license to any applicant for that license who has not an established place of business as defined in this code. If the automobile dismantler changes the site or location of his or her established place of business, he or she shall immediately upon making the change notify the department. If the automobile dismantler, for any reason ceases to be in possession of an established place of business from and on which he or she conducts the business for which he or she is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the automobile dismantler's license, and all books and forms provided by the department in his or her possession.

(b) Any person licensed under this chapter who has closed his or her established place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, unless the person has notified the department in writing of another address where service may be made.

SEC. 6. Section 11610 of the Vehicle Code is amended to read:

11610. (a) If the lessor-retailer changes the location of its principal place of business or any branch office location in California, he or her shall immediately upon making the change notify the department.

(b) If a lessor-retailer, for any reason, ceases to be in possession of its principal place of business or any branch office location, he or she shall immediately notify the department, and shall deliver to the department the lessor-retailer license issued for the location, and, upon demand, all report of sale books in his or her possession.

(c) Any person licensed under this chapter who has closed his or her principal place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business, unless the person has notified the department in writing of another address where service may be made.

SEC. 7. Section 11712 of the Vehicle Code is amended to read:

11712. (a) The department shall not issue a dealer's license to any applicant therefor who has not an established place of business as defined in this code. Should the dealer change the site or location of his established place of business, he or she shall, immediately upon making that change, so notify the department. Should a dealer for any reason whatsoever, cease to be in possession of an established place of business from and on which he or she conducts the business for which he or she is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the dealer's license, dealer's special plate or plates, and all report of sale books in his or her possession.

(b) Should the dealer change to, or add another franchise for the sale of new vehicles, or cancel or, for any cause whatever, otherwise lose a franchise for the sale of new vehicles, he or she shall

immediately so notify the department.

(c) Any person licensed under this article who has closed his or her established place of business may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that place of business or at the mailing address of record if different from the established place of business, unless the person has notified the department in writing of another address where service may be made.

SEC. 8. Section 11812 of the Vehicle Code is amended to read as follows:

11812. (a) Every vehicle salesman licensed pursuant to this article shall, at time of employment, deliver to his or her employing dealer his or her salesman's license to be posted in a place conspicuous to the public on the premises where he or she is actually engaged in the selling of vehicles for the employing dealer.

(b) The license shall be displayed continuously during the employment. If a vehicle salesman's employment is terminated, the license shall be returned to the salesman.

(c) Every vehicle salesman licensed pursuant to this article shall report in writing to the department every change of residence address within five days of the change.

(d) Any person currently or previously licensed under this article who no longer resides at the address last filed with the department may be served with process issued pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code by registered mail at that residence, unless the person has notified the department in writing of another address where service may be made.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 752

An act to amend Section 65081 of, and to add Section 66531 to, the Government Code, relating to transportation.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988.]

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

SECTION 1. The Legislature finds and declares that transportation system management strategies should be a vital part

of regional transportation planning efforts in urban areas. Therefore, regional transportation plans for areas over 50,000 in population should include a transportation system management element as part of a long-range transportation planning effort.

The Legislature further finds and declares that regional transportation planning in the San Francisco Bay area must have local support for it to be meaningful and for the resulting plan to be implemented. Therefore, the Metropolitan Transportation Commission should use comprehensive transportation plans generated by each county within its jurisdiction as the primary basis for the regional transportation plan for the bay area.

SEC. 2. Section 65081 of the Government Code is amended to read:

65081. The regional transportation plan shall include:

(a) A policy element that considers important transportation issues and describes the desired short- and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall consider probable funding constraints.

(b) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element shall also include a program for developing intracity and intercity bicycle programs.

The action element may include a future development list of capacity increasing state highway projects in priority order for initiation of project studies reports. If the list is prepared within the area of the multicounty designated transportation planning agency as defined in Section 130004 of the Public Utilities Code, each county transportation commission shall adopt for the area within its jurisdiction a future development list of capacity increasing state highway projects in priority order. The future development list adopted by the multicounty transportation planning agency shall include the lists separately adopted by each county transportation commission. These lists shall be limited to the regional summation of funds available for capacity improvement projects in the adopted state transportation improvement program when distributed according to the county minimum formula defined in Section 188.8 of the Streets and Highways Code.

(c) A financial element that summarizes the cost of plan implementation, compares these costs to a realistic projection of available revenues, and includes estimates of expected surplus and deficits. It shall contain recommendations for the allocation of funds and for the development of new sources of revenues if needed.

(d) A transportation system management element in urbanized areas over 50,000 in population. The transportation system management element shall include a description of the system to be managed and of the process to be followed in developing and implementing the element. In describing the system, the highway portion shall include the freeways, expressways, and major arterials which constitute the trunkline network for the region. Significant

intermodal connections shall also be included.

The transportation system management element shall identify traffic mitigation strategies which include, but are not limited to, all of the following: (1) designation of high occupancy vehicle lanes, (2) designation of metered interchanges, (3) synchronized signal systems, (4) local traffic mitigation ordinances, (5) flexible work hours and ridesharing activities, and (6) other related activities which are designed to increase the capability of the existing transportation system to move people and goods.

The process for developing and implementing the transportation system management element shall include (1) consultation with local officials and the private sector, including consideration of city and county transportation system management plans, and (2) a description of how the element is to be monitored and evaluated.

SEC. 3. Section 66531 is added to the Government Code, to read:

66531. (a) Each county within the jurisdiction of the commission, together with the cities within the county, may, every two years, develop and update a transportation plan for the county and the cities within the county. The county transportation plan shall be submitted to the commission by the organization designated jointly by the county board of supervisors and the city selection committee.

(b) The commission, in consultation with local agencies, shall develop guidelines to be used in the preparation of county transportation plans. These guidelines shall be consistent with the commission's preparation of the regional transportation plan pursuant to Section 65081. These plans may include, but are not limited to, the following:

(1) Recommendations for major improvements to the system of major arterials, public transit system, and portions of the state highway system within the county.

(2) Consideration of transportation system management alternatives which are designed to increase the capability of the existing transportation system within the county to move people and goods.

(3) Consideration of transportation impacts associated with land use designations embodied in the general plans of the county and cities within the county and projections of economic and population growth available from the Association of Bay Area Governments.

(c) The commission shall adopt guidelines on or before January 1, 1990.

(d) The county transportation plan shall include recommended transportation improvements for the succeeding 10- and 20-year periods.

(e) The county transportation plans shall be the primary basis for the commission's regional transportation plan and shall be considered in the preparation of the regional transportation improvement program. To provide regional consistency, the county transportation plans shall consider the most recent regional

transportation plan adopted by the commission. Where the counties' transportation plans conflict, the commission may resolve the differences as part of the regional transportation plan. The commission shall add proposals and policies of regional significance to the regional transportation plan.

(f) With the consent of the commission, a county may have the commission prepare its county transportation plan.

(g) The counties, together with the commission, shall jointly develop a funding strategy for the preparation of each county's transportation plan.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 753

An act to add Section 68076 to the Education Code, relating to education.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 68076 is added to the Education Code, to read:

68076. (a) Notwithstanding Section 68062, a student who (1) has not been an adult resident of California for more than one year and (2) is the dependent child of a California resident who has had residence in California for more than one year prior to the residence determination date, shall be entitled to resident classification. This exception shall continue until the student has resided in the state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

(b) No provision of this section shall apply to the University of California unless the Regents of the University of California adopt a resolution to that effect.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2

of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 754

An act to amend Sections 19858.1 and 19858.4 of the Government Code, relating to state employees.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 19858.1 of the Government Code is amended to read:

19858.1. (a) Except as provided in subdivision (c), following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 19858.2, each state officer and employee who is employed full time shall receive credit for vacation with pay in accordance with the following schedule:

1 month to 3 years	5/6 day per month
37 months to 10 years	1¼ days per month
121 months to 15 years	1 5/12 days per month
181 months to 24 years	1 7/12 days per month
289 months and over	1⅔ days per month

The computation of credit for the month of January 1964, and each month thereafter shall be based upon the schedule set forth in this subdivision, except that the rate of vacation credit allowed shall not be reduced for any officer or employee employed prior to January 1, 1964. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

(b) If the provisions of subdivision (a) are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Following completion of six months of continuous service, for each completed calendar month of service, except as provided in Section 19858.2, each state officer and employee who is employed full-time and is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a supervisory employee, as

defined in Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall receive credit for vacation in accordance with the following schedule:

1 month to 3 years	7/8 day per month
37 months to 10 years	1 3/8 days per month
121 months to 15 years	1 5/8 days per month
181 months to 20 years	1 3/4 days per month
241 months to 25 years	1 7/8 days per month
301 months and over	2 days per month

The computation of credit for the month of July 1983, and each month thereafter shall be based upon the schedule set forth in this subdivision. The time when vacation shall be taken shall be determined by the appointing power of the officer or employee.

SEC. 2. Section 19858.4 of the Government Code is amended to read:

19858.4. In lieu of the sick leave and vacation provisions of Sections 19858.1 and 19859, eligible employees may make an irrevocable election to participate in an annual leave program. Each employee who has elected to participate in the annual leave program and who is employed full time shall receive credit for annual leave with pay in accordance with the following schedule:

1 month to 3 years	11 hours per month
37 months to 10 years	15 hours per month
121 months to 15 years	17 hours per month
181 months to 20 years	18 hours per month
241 months to 25 years	19 hours per month
301 months and over	20 hours per month

Part-time and hourly employees shall accrue proportional annual leave credits based on the schedule in this section. The time when annual leave shall be taken shall be determined by the appointing power of the officer or employee. Employees shall have use of any accrued sick leave they have accrued at the time they elect the annual leave program under the same conditions as other employees not participating in the program.

The department shall provide by rule for the regulation and accumulation of annual leave, the effect of an absence from the payroll of 10 work days or less in any calendar month upon credit for annual leave, methods by which employees leaving the employment of one state agency and entering the employment of another state agency may be compensated for, transfer, or otherwise receive proper credit for, their accumulated annual leave, and other provisions necessary for the administration of this section.

CHAPTER 755

An act to amend Section 9133 of, to add Section 9131.5 to, and to repeal and add Section 9131 of, the Government Code, relating to legislative funds.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 9131 of the Government Code is repealed.

SEC. 2. Section 9131 is added to the Government Code, to read:

9131. For the period ending on November 30 of each year, the Assembly Committee on Rules, the Senate Committee on Rules, and the Joint Rules Committee shall annually issue a report to the public of all expenditures made from the contingent fund subject to their direction and control. The report shall include, but not be limited to, a list of expenditures for each Member and committee of the Legislature in the following categories:

(a) Out-of-state travel and living expense reimbursement and instate travel and living expense reimbursement.
(b) Automotive expenses.
(c) Building utilities, maintenance, and rent.
(d) Telephone.
(e) Postage.
(f) Printing.
(g) Office supplies.
(h) Newsletters.
(i) Per diem for attendance at legislative sessions.
(j) Employee salaries and benefits.
(k) Employee travel and per diem.
(*l*) Equipment and furniture.
(m) Telegraph.
(n) Freight.
(o) Publications.
(p) Study contracts.
(q) All other expenditures.

SEC. 3. Section 9131.5 is added to the Government Code, to read:

9131.5. When expenditures are made from the appropriate contingent fund at the direction of the Assembly Committee on Rules, the Senate Committee on Rules, or the Joint Rules Committee for advances for travel expenses, or for advances for goods or services, or when expenditures are made for advances for legislative printing, the person to whom advances were made shall reconcile the amount of the advance with the amount of the actual expenditure and repay all moneys in excess of the amount expended within 30 days of the date of the expenditure.

SEC. 4. Section 9133 of the Government Code is amended to

read:

9133. (a) The Joint Rules Committee shall annually contract for an independent audit or audits of all funds and entities of the Legislature, including, but not limited to, the expenditures of the Assembly Contingent Fund, the Senate Contingent Fund, the Contingent Funds of the Assembly and Senate, expenditures for legislative printing, and General Fund expenditures for reimbursement of Members of the Legislature pursuant to Sections 8902 and 8903. These audits shall be made in accordance with generally accepted auditing standards established by the American Institute of Certified Public Accountants.

(b) These audits shall each include, but need not be limited to, an evaluation of:

(1) The expenditures in the following categories:

(A) Out-of-state travel and living expense reimbursement and instate travel and living expense reimbursement.

(B) Automotive expenses.

(C) Building utilities, maintenance, and rent.

(D) Telephone.

(E) Postage.

(F) Printing.

(G) Office supplies.

(H) Newsletters.

(I) Per diem for attendance at legislative sessions.

(J) Employee salaries and benefits.

(K) Employee travel and per diem.

(L) Equipment and furniture.

(M) Telegraph.

(N) Freight.

(O) Publications.

(P) Study contracts.

(Q) All other expenditures.

(2) The accuracy of the annual fiscal year financial statements of the rules committees.

(c) These independent audits shall be completed, and reports thereon made to the respective houses of the Legislature, and to the public, by November 30 of each year for the previous fiscal year ending June 30.

CHAPTER 756

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. This act may be cited as the Second Validating Act of 1988.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and all of the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.

Air quality management districts.

Airport districts.

Assessment districts.

Bridge and highway districts.

Bridge, highway, and transportation districts.

California water district distribution districts.

California water district improvement districts.

California water districts.

Cemetery districts.

Citrus pest control districts.

City general improvement district improvement districts.

City general improvement districts.

City maintenance districts.

Community college districts.

Community development commissions.

Community facilities districts.

Community rehabilitation districts.

Community service district improvement districts.

Community service districts.

Conservancy districts.

Cotton pests abatement districts.

County boards of education.

County drainage districts.

County fire protection districts.

County flood control and water districts.

County free library systems.
County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Integrated financing districts.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local agency formation commissions.
Local health districts.
Local hospital districts.
Local transportation authorities.
Metropolitan transit development boards.

Metropolitan water districts.
Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Service zones of fire protection districts.
Sewer maintenance districts.
Special community services districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.

Storm water districts.
Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county service areas.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on

maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and validate

any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by those sections.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

To validate the organization, boundaries, acts, proceedings, and bonds of public bodies as soon as possible, it is necessary that this act take immediate effect.

CHAPTER 757

An act to validate the organization, boundaries, acts, proceedings, and bonds of public bodies, and to provide limitations of time within which actions may be commenced.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988.]

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

SECTION 1. This act may be cited as the Third Validating Act of 1988.

SEC. 2. As used in this act:

(a) "Public body" means the state and all departments, agencies, boards, commissions, and authorities of the state. "Public body" also means counties, cities and counties, cities, and all of the following districts, authorities, agencies, boards, commissions, and other entities:

Agencies, boards, commissions, or entities constituted or provided for under or pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

Air pollution control districts.
Air quality management districts.
Airport districts.
Assessment districts.
Bridge and highway districts.
Bridge, highway, and transportation districts.
California water district distribution districts.
California water district improvement districts.
California water districts.
Cemetery districts.
Citrus pest control districts.
City general improvement district improvement districts.
City general improvement districts.
City maintenance districts.
Community college districts.
Community development commissions.
Community facilities districts.
Community rehabilitation districts.
Community service district improvement districts.
Community service districts.
Conservancy districts.
Cotton pests abatement districts.
County boards of education.
County drainage districts.
County fire protection districts.
County flood control and water districts.
County free library systems.

County maintenance districts.
County power pumping districts.
County sanitation district improvement districts.
County sanitation districts.
County service area improvement areas.
County service areas.
County sewage and water districts.
County water agencies.
County water authorities.
County water district improvement districts.
County water districts.
County waterworks districts.
Crossing guard maintenance districts.
Department of Water Resources and other agencies acting under and pursuant to Part 3 (commencing with Section 11100) of Division 6 of the Water Code.
Drainage districts.
Fire protection districts.
Flood control and water conservation districts.
Flood control districts.
Garbage and refuse disposal districts.
Garbage disposal districts.
Geologic hazard abatement districts.
Harbor districts.
Harbor improvement districts.
Harbor, recreation, and conservation districts.
Highway districts.
Highway interchange districts.
Highway lighting districts.
Horticultural development districts.
Horticultural protection districts.
Housing authorities.
Industrial development authorities.
Integrated financing districts.
Irrigation district distribution districts.
Irrigation district improvement districts.
Irrigation districts.
Joint harbor improvement districts.
Joint highway districts.
Joint municipal sewage disposal districts.
Junior college districts.
Levee districts.
Library districts.
Local agency formation commissions.
Local health districts.
Local hospital districts.
Local transportation authorities.
Metropolitan transit development boards.
Metropolitan water districts.

Mosquito abatement districts.
Mosquito abatement or vector control districts.
Municipal facilities districts.
Municipal improvement assessment districts.
Municipal improvement district improvement districts.
Municipal improvement districts.
Municipal port districts.
Municipal sewer districts.
Municipal utility districts.
Municipal water district improvement districts.
Municipal water districts of any kind.
Parking authorities.
Parking districts.
Park, recreation, and parkway districts.
Permanent road divisions.
Pest abatement districts.
Port districts.
Project areas of redevelopment agencies.
Protection districts.
Public cemetery districts.
Public utility district improvement districts.
Public utility districts.
Rapid transit authorities.
Rapid transit districts.
Reclamation districts.
Recreational harbor districts.
Recreation and park districts.
Recreation, park, and parkway districts.
Redevelopment agencies.
Regional open-space districts.
Regional park and open-space districts.
Regional park districts.
Regional planning districts.
Resort improvement districts.
Resource conservation districts.
River port districts.
Road districts.
Sanitary agencies.
Sanitary districts.
Sanitary districts annexed areas.
School districts of any kind or class.
Separation of grade districts.
Service zones of fire protection districts.
Sewer maintenance districts.
Special community services districts.
Special transit service districts.
Special benefit assessment districts of the Southern California Rapid Transit District.
Storm water districts

Transit districts.
Underground utility districts.
Unified air pollution control districts.
Unified port districts.
Urban renewal agencies.
Vehicle parking districts.
Veterans' memorial districts.
Water agencies.
Water authorities.
Water conservation districts.
Water districts.
Water replenishment districts.
Water storage district improvement districts.
Water storage districts.
Weed abatement districts.
Zones of community service districts.
Zones of county service areas.
Zones of county water agencies.
Zones of county water authorities.
Zones of county waterworks districts.
Zones of flood control and water conservation districts.
Zones of flood control districts.

The term "public body" and the plural thereof, as used in this act, shall include only those entities which are specifically enumerated in this section.

(b) "Bonds" means all instruments evidencing an indebtedness of a public body incurred or to be incurred for any public purpose, all leases, installment purchase agreements, or similar agreements in which the obligor is one or more public bodies, all instruments evidencing the borrowing of money in anticipation of taxes, revenues, or other income of such body, all instruments payable from revenues or special funds of such public bodies, all certificates of participation evidencing interests in the leases or, installment purchase agreements, or similar agreements, and all instruments funding, refunding, replacing, or amending any thereof or any indebtedness.

(c) "Hereafter" means any time subsequent to the effective date of this act.

(d) "Heretofore" means any time prior to the effective date of this act.

(e) "Now" means the effective date of this act.

SEC. 3. All public bodies heretofore organized or existing under, or under color of, any law are hereby declared to have been legally organized and to be legally functioning as such public body. Every such public body shall have all the rights, powers, and privileges, and be subject to all the duties and obligations, of such a public body regularly formed pursuant to law.

SEC. 4. The boundaries of every public body as heretofore established, defined, or recorded, or as heretofore actually shown on

maps or plats used by the assessor, are hereby confirmed, validated, and declared legally established.

SEC. 5. All acts and proceedings heretofore taken by any public body or bodies under any law, or under color of any law, for the annexation or inclusion of territory into any such public body or for the annexation of any such public body to any other such public body or for the withdrawal or exclusion of territory from any such public body or for the consolidation, merger, or dissolution of any public bodies are hereby confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of any such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the annexation or inclusion or of the withdrawal or exclusion of such territory or the consolidation, merger, or dissolution of such public bodies.

SEC. 6. All acts and proceedings heretofore taken by or on behalf of any public body under any law, or under color of any law, for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds of any such public body for any public purpose are hereby authorized, confirmed, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of such public body and of any person, public officer, board, or agency heretofore done or taken upon the question of the authorization, issuance, sale, execution, delivery, or exchange of such bonds.

All bonds of, or relating to, any public body heretofore issued shall be, in the form and manner in which issued and delivered, the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore awarded and sold to a purchaser and hereafter issued and delivered in accordance with the contract of sale and other proceedings for the award and sale shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued by ordinance, resolution, order, or other action adopted or taken by or on behalf of the public body and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. All bonds of, or relating to, any public body heretofore authorized to be issued at an election and hereafter issued and delivered in accordance with such authorization shall be the legal, valid, and binding obligations of the public body. Whenever an election has heretofore been called for the purpose of submitting to the voters of any public body the question of issuing bonds for any public purpose, such bonds, if hereafter authorized by the required vote and in accordance with the proceedings heretofore taken, and issued and delivered in accordance with such authorization, shall be the legal, valid, and binding obligations of the public body.

SEC. 7. (a) This act shall operate to supply such legislative authorization as may be necessary to authorize, confirm, and validate

any such acts and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which such acts or proceedings were taken.

(b) This act shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the State and Federal Constitutions.

(c) This act shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(d) This act shall not operate to authorize, confirm, validate, or legalize a contract between any public body and the United States.

SEC. 8. Any action or proceeding contesting the validity of any action or proceeding heretofore taken under any law, or under color of any law, for the formation, organization, or incorporation of any public body, or for any annexation thereto, exclusion therefrom, or other change of boundaries thereof, or for the consolidation, merger, or dissolution of any public bodies, or for, or in connection with, the authorization, issuance, sale, execution, delivery, or exchange of bonds thereof upon any ground involving any alleged defect or illegality not effectively validated by the prior provisions of this act and not otherwise barred by any statute of limitations or by laches must be commenced within six months of the effective date of this act; otherwise each and all of such matters shall be held to be valid and in every respect legal and incontestable. This act shall not extend the period in which any action may be brought beyond the period in which it would be barred by any presently existing valid statute of limitations.

SEC. 9. Nothing contained in this act shall be construed to render the creation of any city or district, or any change in the boundaries of any city or district, effective for purposes of assessment or taxation unless the statement, together with the map or plat, required to be filed under Sections 54900 to 54904, inclusive, of the Government Code, is filed within the time and substantially in the manner required by those sections.

CHAPTER 758

An act to amend Sections 11553, 11553.5, 11555, and 11556 of the Government Code, relating to state officers and employees.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 11553 of the Government Code is amended to read:

11553. Effective July 1, 1984, an annual salary of sixty-five thousand dollars ($65,000) will be paid to each of the following:

(a) Chairperson of the Unemployment Insurance Appeals Board.

(b) Chairperson of the Agricultural Labor Relations Board.

(c) President of the Public Utilities Commission.

(d) Chairperson of the Fair Political Practices Commission.

(e) Chairperson of the Waste Management Board.

(f) Chairperson of the Energy Resources Conservation and Development Commission.

(g) Chairperson of the Public Employment Relations Board.

(h) Chairperson of the Workers' Compensation Appeals Board.

(i) Administrative Director of the Division of Industrial Accidents.

(j) Chairperson of the State Water Resources Control Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 2. Section 11553.5 of the Government Code is amended to read:

11553.5. Effective July 1, 1984, an annual salary of sixty-three thousand dollars ($63,000) shall be paid to the following:

(a) Member of the Agricultural Labor Relations Board.

(b) Member of the State Energy Resources Conservation and Development Commission.

(c) Member of the Public Utilities Commission.

(d) Member of the Public Employment Relations Board.

(e) Member of the Unemployment Insurance Appeals Board.

(f) Member of the Workers' Compensation Appeals Board.

(g) Member of the State Water Resources Control Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary

increases provided for state employees during that fiscal year.

SEC. 3. Section 11555 of the Government Code is amended to read:

11555. Effective July 1, 1984, an annual salary of fifty-seven thousand dollars ($57,000) shall be paid to the following:

(a) Chairperson of the Board of Prison Terms.

(b) Chairperson of the Youthful Offender Parole Board.

(c) Chairperson of the Occupational Safety and Health Appeals Board.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

SEC. 4. Section 11556 of the Government Code is amended to read:

11556. Effective July 1, 1984, an annual salary of fifty-five thousand dollars ($55,000) shall be paid to each of the following:

(a) Member of the Board of Prison Terms.

(b) Member of the Youthful Offender Parole Board.

(c) Member of the Occupational Safety and Health Appeals Board.

(d) Director of Boating and Waterways.

On July 1, the annual compensation provided by this section shall be increased in any fiscal year in which a cost-of-living increase is provided for state employees. The amount of the increase provided by this section shall be determined by multiplying the then current compensation by the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

CHAPTER 759

An act to add Sections 587 and 797 to the Public Utilities Code, relating to the Public Utilities Commission.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 587 is added to the Public Utilities Code, to read:

587. Every electrical, gas, and telephone corporation shall annually prepare and submit to the commission a report describing all significant transactions, as specified by the commission, between the corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in, the electrical, gas, or telephone

corporation. The report shall identify the nature of the transactions and the terms and conditions applying to them, including, but not limited to, the basis upon which cost allocations and transfer pricing were established for the transactions.

SEC. 2. Section 797 is added to the Public Utilities Code, to read:

797. The commission shall periodically audit all significant transactions, as specified by the commission, between an electrical, gas, or telephone corporation and every subsidiary or affiliate of, or corporation holding a controlling interest in, that electrical, gas, or telephone corporation. The commission may, in this connection, utilize the services of an independent auditor, who shall be selected and supervised by the commission. Nothing in this section prohibits the commission from auditing any transaction between an electrical, gas, or telephone corporation and any subsidiary or affiliate of, or corporation holding a controlling interest in, the electrical, gas, or telephone corporation, as otherwise permitted or required by law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 760

An act to add Section 5781.46 to the Public Resources Code, relating to recreation and park districts.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 5781.46 is added to the Public Resources Code, to read:

5781.46. (a) Notwithstanding Section 5781.4 or any other provision of law to the contrary, the board of directors of the North Bakersfield Recreation and Park District shall be composed of seven members who shall be selected pursuant to subdivision (b).

(b) (1) If the board of directors is appointed by the board of supervisors and by the mayors of cities included wholly or partly in the district, then the board of supervisors and the mayors of those cities shall specify the terms of office of members to be appointed.

(2) If unincorporated territory and territory of only one city is included in the district, four members of the board of directors shall be appointed by the board of supervisors of the county in which the district is formed, unless the population of the city or part in the district exceeds that of the unincorporated territory included in the

district, in which event four members of the board of directors appointed by the mayor of the city and three members appointed by the board of supervisors of the county in which the district is formed shall constitute the district board of directors.

(3) If unincorporated territory and all or parts of two or more cities are included in the district, one director shall be appointed by the board of supervisors. The remaining members shall be selected by majority vote of the mayors of the cities included wholly or partly within the district.

(4) If the district contains no unincorporated territory, the district board of directors shall consist of seven directors appointed by the mayor of the city, or mayors of the cities included wholly or partly within the district. If only two cities or parts thereof are in the district, three district board members shall be appointed by the mayor of the city having the lesser population, and four members by the mayor of the city having the greater population. If more than two cities are included wholly or partly within a district, the members of the district board shall be selected by majority vote of the mayors of those cities.

(c) The board of directors may be elected as provided in this chapter.

SEC. 2. (a) All acts and proceedings heretofore taken by the board of directors of the North Bakersfield Recreation and Park District under any law or under color of any law are hereby authorized, confirmed, validated, and declared legally effective.

(b) This act operates to supply the legislative authorization necessary to authorize, confirm, and validate those actions and proceedings heretofore taken which the Legislature could have supplied or provided for in the law under which those acts or proceedings were taken.

(c) This act is limited to the validation of acts and proceedings to the extent to which the acts and proceedings can be effectuated under the California and United States Constitutions.

(d) This act does not authorize, confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which is pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

SEC. 3. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances posed by the North Bakersfield Recreation and Park District. Among these circumstances is the original organization of the district in 1955 as a county recreation district with a board of directors consisting of seven members. Upon its reorganization in 1960 as a recreation and park district, the district

retained its seven-member board of directors on the advice of counsel despite the absence of statutory authorization. The North Bakersfield Recreation and Park District is the only recreation and park district to do so. In order for the district to maintain its board of directors with seven members, this special act is necessary.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 761

An act to amend Section 20022 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 20022 of the Government Code, as amended by Chapter 13 of the Statutes of 1988, is amended to read:

20022. (a) "Compensation" includes: (1) the remuneration paid in cash out of funds controlled by the employer, plus the monetary value, as determined by the board, of living quarters, board, lodging, fuel, laundry and other advantages of any nature furnished a member by his or her employer in payment for his or her services or for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence; (2) any payments in cash by his or her employer to one other than an employee for the purpose of purchasing an annuity contract for a member under an annuity plan which meets the requirements of Section 403(b) of the Internal Revenue Code of the United States; (3) any amount deducted from a member's wages for participation in a deferred compensation plan established pursuant to Chapter 4 (commencing with Section 19993) of Part 2.6 of Division 5 of Title 2 or pursuant to Article 1.1 (commencing with Section 53212) of Chapter 2 of Part 1 of Division 2 of Title 5; (4) any amount deducted from the member's salary for payment for participation in a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (5) any amount deducted from the member's salary for payment into a money purchase pension plan and trust which meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; (6) employer "pick up" of member contributions which meets the requirements of Section 414(h)(2) of the Internal Revenue Code of the United States; (7) any disability or workers' compensation

payments to safety members in accordance with Sections 4800 and 4850 of the Labor Code; (8) any special compensation for performing normally required duties such as holiday pay, bonuses (for duties performed on regular work shift), educational incentive pay, maintenance and noncash payments, out of class pay, marksmanship pay, hazard pay, motorcycle pay, paramedic pay, emergency medical technician pay, POST certificate pay, split shift differential and substitute differential in Sections 45196 and 88196 of the Education Code; (9) compensation for uniforms, except as provided in Section 20022.1; (10) any deductions from salaries of employees who have opted into a flexible benefits program; (11) temporary industrial disability payments pursuant to Article 4 (commencing with Section 19869) of Chapter 2.5 of Part 2.6 of Division 5 of Title 2; and (12) any other payments the board may determine to be compensation.

(b) "Compensation" shall not include: (1) the provision by an employer of any medical or hospital service or care plan or insurance plan (other than the purchase of annuity contracts referred to in this section) for its employees, any contribution by an employer to meet the premium or charge for such plan, or any payment into a private fund to provide health and welfare benefits for its employees; (2) any payment by an employer of the employee portion of taxes imposed by the Federal Insurance Contribution Act; (3) amounts not available for payment of salaries and which are applied by an employer for the purchase of annuity contracts including those which meet the requirements of Section 403(b) of the Internal Revenue Code of the United States; (4) the bonus sum provided for low-paid state employees in the Budget Act of 1975; (5) any benefits paid pursuant to Article 5 (commencing with Section 19878) of Chapter 2.5 of Part 2.6 of this division; (6) employers' payments which are to be credited as employee contributions for benefits provided by this system, or employers' payments which are to be credited to employee accounts in deferred compensation plans; provided, that amounts deducted from a member's wages for participation in a deferred compensation plan pursuant to paragraph (3) of subdivision (a) shall not be considered to be employer's payments; (7) lump-sum payments for vacation, sick leave, or compensating time off; (8) final settlement pay; (9) payments for overtime, including pay in lieu of vacation or holiday; (10) special compensation for additional services outside regular duties, such as standby pay, callback pay, court duty, allowance for automobile, bonuses for duties performed after regular work shift; (11) advanced disability pension payments provided pursuant to Section 4850.3 of the Labor Code; (12) amounts not available for payment of salaries and which are applied by the employer for the purchase of a retirement plan which meets the requirements of Section 401(k) of the Internal Revenue Code of the United States; (13) amounts not available for payment of salaries which are applied by the employer for payment into a money purchase pension plan and trust which

meets the requirements of Section 401(a) of the Internal Revenue Code of the United States; (14) payments made by employers to or on behalf of their employees who have elected to be covered by a flexible benefits program, where those payments reflect amounts that exceed their employees' salaries; and (15) any other payments the board may determine not to be compensation.

(c) If the provisions of this section are in conflict with the provisions of the memoranda of understanding reached pursuant to Section 3517.5 for state bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20, the memoranda of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(d) Subdivision (c) is not applicable to base salary payments or payments for time during which the member is excused from work because of holidays, sick leave, vacation, compensating time off, or leave of absence.

CHAPTER 762

An act to repeal and add Section 44811 of, and to repeal Section 44812 of, the Education Code, relating to schools.

[Approved by Governor September 7, 1988. Filed with Secretary of State September 7, 1988]

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

SECTION 1. Section 44811 of the Education Code is repealed.

SEC. 2. Section 44811 is added to the Education Code, to read:

44811. Any parent, guardian, or other person whose conduct in a place where a school employee is required to be in the course of his or her duties materially disrupts classwork or extracurricular activities or involves substantial disorder is guilty of a misdemeanor which is punishable by a fine not exceeding one hundred dollars ($100), by imprisonment in the county jail for a period of not more than 10 days, or both. This section does not apply to any otherwise lawful employee concerted activity, including, but not limited to, picketing and the distribution of handbills.

SEC. 3. Section 44812 of the Education Code is repealed.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 763

An act to amend Sections 20930 and 21263.2 of the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 7, 1988 Filed with Secretary of State September 7, 1988.]

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

SECTION 1. Section 20930 of the Government Code is amended to read:

20930. "Public service" for purposes of this article means the following:

(a) The period of time an employee served the state, a school employer, or a contracting agency prior to becoming a member, when the service was rendered in a position in which the employee was excluded provided one of the following conditions is met:

(1) The position has since become subject to compulsory membership in this system.

(2) The employee was excluded because the employee was serving on a part-time basis.

(3) The employee was excluded because the employee failed to exercise the right to elect membership under this part.

(b) Employment in the State Emergency Relief Administration or the State Relief Administration subsequent to March 1933, regardless of the source of the compensation paid for that employment.

(c) Employment as an academic employee of the University of California prior to 1963. However, any member electing to receive credit for public service shall in addition to other contributions required by this article contribute an amount equal to the contributions which would have been made on his or her behalf by the state had he or she been in membership during that employment, assuming that the state rate of contribution in effect at the time of election has been in effect during that employment.

(d) Employment of the state in which the person was not eligible for membership in the system if the ineligibility was solely because his or her compensation was paid from other than state-controlled funds. However, time spent in work as a work relief recipient under programs such as, but not limited to, the Works Progress Administration, the Civil Works Administration, the Federal Emergency Relief Administration, the National Youth Administration, and the Civilian Conservation Corps, shall not constitute public service.

(e) Employment in a function formerly performed by a public agency other than a contracting agency and assumed by a contracting agency where the employees who performed those

functions are or were transferred to or employed by the contracting agency without change in occupation or position.

(f) Civilian service as an employee or officer of an agency of the government of the United States which performed functions the same as or substantially similar to those performed by this state prior to January 1, 1942, and which were transferred from the state to that agency, including military service in any branch of the armed forces of the United States performed by an individual on military leave of absence from that federal employment, if all the following conditions exist:

(1) Prior to performing that federal service he or she was employed by the state.

(2) He or she was laid off from state service or would have been so laid off if he or she had not been absent in military service because of the transfer of the functions of the state to an agency of the United States government.

(3) Subsequent to his or her layoff from state service he or she was employed by the United States government in an agency performing functions the same as or substantially similar to those of the state agency from which he or she was laid off.

(4) After his or her separation from federal service, he or she was employed by a state agency or

(5) In lieu of subparagraphs (1), (2), and (3), the United States government pays to the state or an agency of the state, funds equal to contributions which would have been made by the state had the member been in state service for the period of his or her public service with respect to members who were not employed by the state prior to entering that federal employment or whose state service prior to entering that federal employment was terminated for reasons other than the transfer of the function.

(g) Employment in a district, prior to the time the district became a subsidiary district of a city, of a person who was employed by the city following the reorganization to render service to the district and who became a member in that employment.

SEC. 2. Section 21263.2 of the Government Code is amended to read:

21263.2. (a) An eligible survivor of a state safety member who retired prior to April 1, 1973, and died prior to September 28, 1987, shall receive a monthly survivor's allowance, derived solely from employer contributions and not from any contributions from the member, equal to 50 percent of the amount of the member's retirement allowance payable to the member at the time of his or her death. The member's monthly allowance shall have been based on his or her credited service. An eligible survivor of a state safety member who retired prior to April 1, 1973, and died on or after September 28, 1987, shall receive a monthly survivor's allowance determined pursuant to Section 21263.

(b) The benefit provided by this section shall not be offset by any entitlement of the survivor under the federal system.

(c) The benefit is payable to the surviving spouse for life.

(d) If there is no surviving spouse of the retired member, or upon the death of a surviving spouse, the benefit authorized by this section shall be paid to an eligible child or to eligible children.

(e) If, at the time of the death of the retired member there is no surviving spouse or eligible child or children, the benefit authorized by this section shall be paid to the parent or parents of the deceased member who were dependent upon the member for support.

(f) If, at the effective date of his or her retirement, the member was unmarried, or if, at the time of his or her death, the member had no eligible child or children, had no dependent parent or parents, and had elected an optional settlement, no survivor's allowance authorized by this section shall vest in or be paid to any individual.

(g) "Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a period of time beginning one year or more prior to his or her retirement and continuing without interruption until the death of the member.

(h) "Eligible child," for purposes of this section, means an unmarried child of the deceased member who (1) has not attained age 18, or (2) is over age 18 but disabled due to a condition that existed and disabled the child prior to his or her 18th birthday and which has continuously disabled the person after having reached age 18. Eligibility of the child for the benefits of this provision shall terminate upon the earlier of the following:

(1) Attainment of age 18, unless the disability exemption applies.

(2) Marriage of the child prior to age 18.

(3) Cessation of a child's disability.

(4) Death of a child.

(i) The allowance paid pursuant to this section shall be adjusted to reflect a one-half continuance allowance with no offset by reason of participation in the federal system. The adjustment provided by this section shall be applied to any survivor receiving a continuance allowance on the effective date of this section.

Nothing in this section was or is intended to, or shall be construed to, impair any vested rights of any eligible survivor of a state safety member who retired prior to April 1, 1973, and who died on or after September 28, 1987.

SEC. 3. Notwithstanding any other provision of law, the survivors' continuance allowance with respect to any state safety member who retired prior to April 1, 1973, and who died on or after September 28, 1987, and before the effective date of the amendment of this section made in 1988 at the 1987–88 Regular Session of the Legislature, shall be payable retroactive to the date following the date of the death of the retired member.

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

In order that inadvertent inequities and impairments of vested

rights of certain eligible survivors of former state safety members who retired prior to April 1, 1973, which resulted from the enactment of Chapter 1315 of the Statutes of 1987 may be rectified and that the potential for related litigation may be eliminated, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 764

An act to amend Section 25865 of the Health and Safety Code, relating to radioactive waste.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 25865 of the Health and Safety Code is amended to read:

25865. (a) Any person who violates this chapter, or rules, regulations, or orders in effect adopted pursuant to this chapter, is guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both the fine and imprisonment.

(b) Any person who knowingly disposes or causes the disposal of any radioactive material regulated by this chapter, or who reasonably should have known that the person was disposing or causing the disposal of the material, at a facility within the state which does not have a license for disposal issued by the department pursuant to this chapter, or at any point in the state which is not authorized according to this chapter, or by any other local, state, or federal agency having authority over radioactive materials, and is in violation of this chapter, or any regulation or order adopted pursuant to this chapter, is guilty of a public offense, and upon conviction, may be punished as follows:

(1) If the disposal is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation, except as otherwise provided in paragraph (2).

(2) If the act which violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment in the state prison for three, five, or seven years and may be fined not more than two hundred fifty thousand dollars ($250,000) for each day of

violation.

(c) Any person who knowingly transports or causes the transportation of any radioactive material regulated by this chapter, or who reasonably should have known that the person was causing the transportation of the material, to a facility in the state which does not have a license from the department issued pursuant to this chapter, to any point in the state which is not authorized by this chapter, or to any point in the state which is not authorized by any other local, state, or federal agency having authority over radioactive materials, and is in violation of this chapter, or any regulation or order adopted pursuant to this chapter, is guilty of a public offense and, upon conviction, may be punished as follows:

(1) If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment in the state prison for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars ($100,000) for each day of violation, except as provided by paragraph (2).

(2) If the transportation which violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment in the state prison for three, five, or seven years and may be fined not more than two hundred fifty thousand dollars ($250,000) for each day of violation.

(d) Notwithstanding any other provision of this chapter, radioactive materials used in medical treatment or result from medical treatment, which are disposed, stored, handled, or transported in a manner authorized pursuant to this chapter, are exempt from subdivisions (b) and (c).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 765

An act to amend Sections 21651, 21664, and 40000.13 of the Vehicle Code, relating to vehicles

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 21651 of the Vehicle Code is amended to read:

21651. (a) Whenever a highway has been divided into two or more roadways by means of intermittent barriers or by means of a dividing section of not less than two feet in width, either unpaved or delineated by curbs, double-parallel lines, or other markings on the roadway, it is unlawful to do either of the following:

(1) To drive any vehicle over, upon, or across the dividing section.

(2) To make any left, semicircular, or U-turn with the vehicle on the divided highway, except through an opening in the barrier designated and intended by public authorities for the use of vehicles or through a plainly marked opening in the dividing section.

(b) It is unlawful to drive any vehicle upon a highway, except to the right of an intermittent barrier or a dividing section which separates two or more opposing lanes of traffic. Except as otherwise provided in subdivision (c), a violation of this subdivision is a misdemeanor.

(c) Any willful violation of subdivision (b) which results in injury to, or death of, a person shall be punished by imprisonment in the state prison, or imprisonment in a county jail for a period of not more than six months.

SEC. 2. Section 21664 of the Vehicle Code is amended to read:

21664. It is unlawful for the driver of any vehicle to enter or exit any freeway which has full control of access and no crossings at grade, except upon a designated on ramp with respect to entering the freeway or a designated off ramp with respect to exiting the freeway.

SEC. 3. Section 40000.13 of the Vehicle Code is amended to read:

40000.13. A violation of any of the following provisions is a misdemeanor, and not an infraction:

(a) Section 16560, relating to interstate highway carriers.

(b) Sections 20002 and 20003, relating to duties at accidents.

(c) Section 21200.5, relating to riding a bicycle while under the influence of an alcoholic beverage or any drug.

(d) Section 21651, subdivision (b), relating to wrong-way driving on divided highways.

(e) Section 22520.5, a second or subsequent conviction of an offense relating to vending on or near freeways.

(f) Section 22520.6, a second or subsequent conviction of an offense relating to roadside rest areas and vista points.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 766

An act to add and repeal Section 11798.1 of the Health and Safety Code, relating to alcohol and drug programs.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 11798.1 is added to the Health and Safety Code, to read:

11798.1. (a) Notwithstanding any other requirement of Part 2 (commencing with Section 11760) or of Part 3 (commencing with Section 11860) of this division, the director shall establish a demonstration program with San Mateo, Fresno, and San Francisco Counties whereby San Mateo, Fresno, and San Francisco Counties shall each develop and operate its alcohol and drug abuse programs which would otherwise be required under this division, as one coordinated program in each county. However, the demonstration program shall only operate in any of these counties if the board of supervisors of the respective county adopts a resolution consenting to the establishment of the demonstration program. In establishing this demonstration program, it is the intent of the Legislature that:

(1) In developing and operating this demonstration program, San Mateo, Fresno, and San Francisco Counties may combine their alcohol and drug advisory boards, their alcohol and drug plan, their alcohol and drug budget, and submission deadlines for alcohol and drug budgets and cost reports and their administration at both the county and provider level.

(2) The demonstration program shall reflect current licensing and program standards, except as defined in paragraph (3).

(3) In circumstances where any of the three pilot counties wish to combine treatment programs for persons with both alcohol and drug problems, the county shall first submit its plan and program standards for the treatment programs to the State Department of Alcohol and Drug Programs for approval.

(4) The demonstration programs shall assess or categorize a program participant at the time of admission and discharge as having problems primarily with abuse of either alcohol or of drugs for purposes of federal reimbursement as required by federal law and

report information to the department in a form consistent with existing data collection systems.

(5) San Mateo, Fresno, and San Francisco Counties, shall report to the director no later than October 1 of each year, that information which the director determines is reasonably necessary to determine the utility of these demonstration programs compared to operations in San Mateo, Fresno, and San Francisco Counties prior to implementation of this section. This information shall include, but not be limited to, each of the following:

(A) The extent of savings in administrative costs as a result of consolidation.

(B) The extent of any shift of resources from administrative support to service delivery.

(C) The impact of this demonstration program on service delivery and program effectiveness, including social model programs, and the achievement of outcomes identified in the county plans.

(D) The impact of this demonstration program on the availablity of federal funds.

(E) The extent to which individuals with primary alcohol problems decline services because of this demonstration program.

(F) Ability of the demonstration program to incorporate effective prevention efforts.

(G) Survey of participant attitudes regarding satisfaction with services to assure that the unique problems of drug abusers and persons inappropriately using alcohol are adequately addressed.

(H) Recovery rates compared with similar counties.

(I) The impact of this demonstration program on unit costs as compared to previous service costs for alcohol and drug services.

(J) The extent of training provided for alcohol and drug recovery program staff.

No later than January 1, 1994, the director shall report to the Legislature regarding the impact of consolidation. The report shall include a program evaluation based on the above information. No additional counties will be added to this pilot program until a full evaluation of the effectiveness of this program is completed.

(b) This section shall become operative July 1, 1989, and shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

CHAPTER 767

An act to amend Sections 19850 and 19851 of the Health and Safety Code, relating to buildings.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 19850 of the Health and Safety Code is amended to read:

19850. The building department of every city or county shall maintain an official copy, which may be on microfilm or other type of photographic copy, of the plans of every building, during the life of the building, for which the department issued a building permit.

"Building department" means the department, bureau, or officer charged with the enforcement of laws or ordinances regulating the erection, construction, or alteration of buildings.

Except for plans of a common interest development as defined in Section 1351 of the Civil Code, plans need not be filed for:

(a) Single or multiple dwellings not more than two stories and basement in height.

(b) Garages and other structures appurtenant to buildings described under subdivision (a).

(c) Farm or ranch buildings.

(d) Any one-story building where the span between bearing walls does not exceed 25 feet. The exemption in this subdivision does not, however, apply to a steel frame or concrete building.

SEC. 2. Section 19851 of the Health and Safety Code is amended to read:

19851. (a) The official copy of the plans maintained by the building department of the city or county provided for under Section 19850 shall be open for inspection only on the premises of the building department as a public record. The copy may not be duplicated in whole or in part except (1) with the written permission, which permission shall not be unreasonably withheld as specified in subdivision (f), of the certified, licensed or registered professional or his or her successor, if any, who signed the original documents and the written permission of the original or current owner of the building, or, if the building is part of a common interest development, with the written permission of the board of directors or governing body of the association established to manage the common interest development, or (2) by order of a proper court.

(b) Any building department of a city or county, which is requested to duplicate the official copy of the plans maintained by the building department, shall request written permission to do so from the certified, licensed, or registered professional, or his or her successor, if any, who signed the original documents and from (1) the

original or current owner of the building or (2), if the building is part of a common interest development, from the board of directors or other governing body of the association established to manage the common interest development.

(c) The building department shall also furnish the form of an affidavit to be completed and signed by the person requesting to duplicate the official copy of the plans, which contains provisions stating all of the following:

(1) That the copy of the plans shall only be used for the maintenance, operation, and use of the building.

(2) That drawings are instruments of professional service and are incomplete without the interpretation of the certified, licensed, or registered professional of record.

(3) That subdivision (a) of Section 5536.25 of the Business and Professions Code states that a licensed architect who signs plans, specifications, reports, or documents shall not be responsible for damage caused by subsequent changes to, or use of, those plans, specifications, reports, or documents where the subsequent changes or uses, including changes or uses made by state or local governmental agencies, are not authorized or approved by the licensed architect who originally signed the plans, specifications, reports, or documents, provided that the architectural service rendered by the architect who signed the plans, specifications, reports, or documents was not also a proximate cause of the damage.

(d) The request by the building department to a licensed, registered, or certified professional may be made by the building department sending a registered letter to the licensed, registered, or certified professional requesting his or her permission to duplicate the official copy of the plans and sending with the registered letter, a copy of the affidavit furnished by the building department which has been completed and signed by the person requesting to duplicate the official copy of the plans. The registered letters shall be sent by the building department to the most recent address of the licensed, registered, or certified professional available from the California State Board of Architectural Examiners.

(e) The governing body of the city or county may establish a fee to be paid by any person who requests the building department of the city or county to duplicate the official copy of any plans pursuant to this section, in an amount which it determines is reasonably necessary to cover the costs of the building department pursuant to this section.

(f) The certified, licensed, or registered professional's refusal to permit the duplication of the plans is unreasonable if, upon request from the building department, the professional does either of the following:

(1) Fails to respond to the local building department within 30 days of receipt by the professional of the request. However, if the building department determines that professional is unavailable to respond within 30 days of receipt of the request due to serious illness,

travel, or other extenuating circumstances, the time period shall be extended by the building department to allow the professional adequate time to respond, as determined to be appropriate to the individual circumstance, but not to exceed 60 days.

(2) Refuses to give his or her permission for the duplication of the plans after receiving the signed affidavit and registered letter specified in subdivisions (c) and (d).

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 768

An act to amend Section 1798.164 of the Health and Safety Code, relating to emergency medical services.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 1798.164 of the Health and Safety Code is amended to read:

1798.164. (a) A local emergency medical services agency may charge a fee to an applicant seeking initial or continuing designation as a trauma facility in an amount sufficient to cover the costs directly related to the designation of trauma facilities pursuant to Section 1798.165 and to the development of the plans prepared pursuant to Sections 1797.257 and 1797.258, and subdivision (b) of Section 1798.162.

(b) Each local emergency medical services agency charging fees pursuant to subdivision (a) shall annually provide a report to the authority and to each trauma facility having paid a fee to the agency. The report shall contain sufficient detail to apprise facilities of the specific application of fees collected and to assure the authority that fees collected were expended in compliance with subdivision (a).

(c) The authority may establish a prescribed format for the report required in subdivision (b).

SEC. 2. Chapter 1067 of the Statutes of 1983 added Article 2.5 (commencing with Section 1798.160) to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code to provide for regional trauma care systems. Within that article, Section 1798.164 authorized local emergency medical services agencies to impose fees to cover their direct costs under the program. Section 1 of this act is intended to assure that fees assessed are expended in accordance with existing statutes but leaves the power to impose fees to cover direct costs

intact.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 769

An act to amend Section 63.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence which consists of an area of reasonable size which is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers,

excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar ($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children.

(2) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents while the relationship of parent and son-in-law or daughter-in-law exists. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(3) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(4) "Eligible transferor" means a parent or child of an eligible transferee.

(5) "Eligible transferee" means a parent or child of an eligible transferor.

(6) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(d) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

(2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferee. The written certification shall also include either or both of the following:

(A) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(B) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor which is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, and the names of the eligible transferees of that property.

(C) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee of the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (e) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

The State Board of Equalization shall design the form for claiming eligibility. Any claim under this section shall be filed within three years after the date of the purchase or transfer of real property for which the claim is filed.

The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to this subdivision. Each report shall contain the assessor's parcel number for each parcel for which the

exclusion is claimed, the amount of each exclusion claimed, the tax identification number of each eligible transferor, and any other information as the board shall require in order to monitor the one million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(e) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(f) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, which occurred prior to that date.

SEC. 2. The amendments to Section 63.1 of the Revenue and Taxation Code made by Section 1 of this act shall apply to purchases and transfers of real property which occur on or after November 6, 1986.

SEC. 3. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include either of the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars ($1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children

(b) (1) For purposes of paragraph (1) of subdivision (a), "principal residence" means a dwelling for which a homeowner's exemption or a disabled veteran's residence exemption has been granted in the name of the eligible transferor. "Principal residence" includes only that portion of the land underlying the principal residence which consists of an area of reasonable size which is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one million dollar ($1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor's interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one million dollar

($1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children.

(2) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(3) "Full cash value" means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(4) "Eligible transferor" means a parent or child of an eligible transferee.

(5) "Eligible transferee" means a parent or child of an eligible transferor.

(6) "Real property" means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(7) "Transfer" includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(d) The exclusions provided for in subdivision (a) shall not be

allowed unless the eligible transferee files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(1) A written certification by the transferee made under penalty of perjury that the transferee is a parent or child of the transferor.

(2) A copy of a written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate made under penalty of perjury that the transferor is a parent or child of the transferee. The written certification shall also include either or both of the following:

(A) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(B) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor which is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, and the names of the eligible transferees of that property.

(C) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee of the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (e) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

The State Board of Equalization shall design the form for claiming eligibility. Any claim under this section shall be filed within three years after the date of the purchase or transfer of real property for which the claim is filed.

The assessor shall report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to this subdivision. Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed, the tax identification number of each eligible transferor, and any other information as the board shall require in order to monitor the one

million dollar ($1,000,000) limitation in paragraph (2) of subdivision (a).

(e) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree.

(f) This section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, which occurred prior to that date.

SEC. 4. Except for the addition of paragraph (7) to subdivision (c), the amendments to Section 63.1 of the Revenue and Taxation Code made by Section 3 of this act shall apply to purchases and transfers of real property which occur on or after November 6, 1986.

SEC. 5. Sections 3 and 4 of this bill incorporate amendments to Section 63.1 of the Revenue and Taxation Code proposed by both this bill and SB 1736. Sections 3 and 4 of this bill shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 63.1 of the Revenue and Taxation Code, and (3) this bill is enacted after SB 1736, in which case Sections 1 and 2 of this bill shall not become operative.

CHAPTER 770

An act to amend Section 104.8 of the Streets and Highways Code, relating to state property, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 104.8 of the Streets and Highways Code is amended to read:

104.8. (a) The department may provide information regarding, and may lease, airspace under the interchange of Route 4 and Route 5 in San Joaquin County and between 17th Street and the west side of Route 5 between the southbound on ramp and the off ramp near J Street in the City of San Diego and on the northeast corner of Route 101 and De La Vina Street in the County of Santa Barbara, to a city, county, or other political subdivision or another state agency for emergency shelter or feeding program purposes. Property may be leased pursuant to this section only if there is no buyer. The lease shall be for one dollar ($1) per month. The lease amount may be paid in advance of the term covered in order to reduce the administrative costs associated with the payment of the monthly rental fee.

Any lease executed pursuant to this section shall also provide for the cost of administering the lease

The administrative fee shall not exceed five hundred dollars ($500) per year unless the department determines that a higher administrative fee is necessary.

(b) The Legislature finds and declares that the lease of real property pursuant to this section serves a public purpose.

(c) Any lease executed pursuant to subdivision (a) for airspace under the interchange of Route 4 and Route 5 in San Joaquin County shall provide for the rescission of existing leases of this airspace between the department and the City of Stockton and for the refunding of any rent paid pursuant to those leases for periods commencing on or after January 1, 1988.

SEC. 2. (a) The Director of General Services, with the approval of the Director of Developmental Services, shall sell to the County of San Joaquin, upon the following terms and conditions and with those reservations and exceptions which in the director's opinion may be in the best interest of the state, that 2.33 acre parcel located in the City of Stockton and described in subdivision (b):

(1) The County of San Joaquin shall, with the concurrence of the Director of Developmental Services, commission an independent appraisal of the parcel. Whatever the appraised value of the property is determined to be, the county shall be permitted to purchase the property at the fair market value of the appraised worth of the property.

(2) The parcel shall be used to construct, maintain, and operate a residential building to house chronically mentally ill adults, and a senior citizen mental health and wellness center. Any other use of the parcel shall be subject to the approval of the Director of Developmental Services.

(3) Any costs or expenses incurred in the sale of the State Hospital land may be reimbursed from the proceeds of the sale.

(4) All of the proceeds of the sale of the State Hospital land, less reimbursements for costs and expenses, shall be paid into the General Fund.

(5) The sale of the State Hospital land is exempt from Chapter 3 (commencing with Section 21100), Chapter 4 (commencing with Section 21150), Chapter 5 (commencing with Section 21160), and Chapter 6 (commencing with Section 21165) of Division 13 of the Public Resources Code.

(b) The parcel referred to in subdivision (a) is a portion of the state hospital grounds located in the City of Stockton, California, and a portion of Section 19 of the C. M. Weber Grant, County of San Joaquin, State of California, more particularly described as follows:

Beginning at the intersection of the southerly line of Harding Way with the easterly line of California Street; running thence along said easterly line of California Street, South 11°41'30" East, 306.00 feet; thence North 78°15'30" East, 330.32 feet to the westerly line of a private street within the State Hospital grounds, known as North American Street; thence along said westerly line of North American Street, the following courses and distances: (1) North 12°07'20" West,

105.00 feet; and (2) along a curve to the right with a radius of 130.00 feet (the long chord of which bears North 15°59'26" East, 122.51 feet) an arc distance of 127.57 feet; thence North 12°23'40" West, 13.49 feet to the fence encompassing a City of Stockton fire station; thence along said fence, the following courses and distances: (1) South 78°08'40" West, 21.49 feet; (2) North 12°23'20" West, 5.03 feet; (3) South 78°06' West, 65.32 feet; and (4) North 10°10' West, 73.61 feet to the aforesaid southerly line of Harding Way; thence along said southerly line of Harding Way, South 87°23'13" West, 301.37 feet to the point of beginning of the therein described parcel, containing 2.33 acres, more or less.

SEC. 3. As to any property sold pursuant to Section 2 of this act containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry.

SEC. 4. Nothing in Chapter 6 (commencing with Section 7800) of Division 7 of the Welfare and Institutions Code, which is proposed to be added by AB 4279 of the 1987–88 Regular Session, shall affect Section 1 to 3, inclusive, of this act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the property specified in Section 2 of this act to be used to establish a residential building to house chronically mentally ill adults and a senior citizen mental health and wellness center at the earliest possible time, and in order to facilitate the implementation of the other provision of this bill, it is necessary for this act to take effect immediately.

CHAPTER 771

An act to amend Section 25169 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 25169 of the Health and Safety Code is amended to read:

25169. (a) Every transporter of hazardous waste shall maintain ability to respond in damages resulting from the operation of that business. The ability to respond in damages includes the ability to respond to public liability, as provided in subdivision (c). For purposes of this section only, "public liability" means liability for

bodily injury, including injury to the body, sickness, or disease to any person, and death resulting from any such injury, sickness, or disease; for property damage, including damage to, or loss of use of, tangible property; and for environmental restoration, including restitution for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release, or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This liability includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage or potential for damage to human health, the natural environment, fish, shellfish, and wildlife. The ability to respond shall be consistent with whichever of the following requires the highest limits:

(1) The liability limits prescribed pursuant to Section 3631 of the Public Utilities Code.

(2) The liability limits prescribed pursuant to Section 3631.5 of the Public Utilities Code.

(3) A higher limit than that prescribed pursuant to paragraph (1) or (2), when deemed necessary and so established by the department.

(b) The department shall, within two working days of being informed of any violation of subdivision (a), transmit a notice of violation to the transporter suspected of the violation. If the transporter so notified does not present proof of compliance with subdivision (a) to the department's satisfaction within 30 days of transmittal of the notice, the department shall immediately, notwithstanding Section 25186, suspend the transporter's registration. If proof of compliance is not submitted within 60 days, the registration shall immediately be revoked, notwithstanding Section 25186. A transporter whose registration is revoked pursuant to this subdivision may apply again for registration upon furnishing proof of compliance with subdivision (a).

(c) The ability to respond to public liability means having a policy of insurance coverage issued by an insurer or a surety bond issued by a surety, which meets both of the following requirements:

(1) The policy or bond has the liability limits specified for carriers of hazardous wastes by the Department of Transportation in Part 387 (commencing with Section 387.1) of Subchapter B of Chapter 111 of Title 49 of the Code of Federal Regulations, except that coverage shall be in the amount of one million two hundred thousand dollars ($1,200,000) for waste petroleum in bulk shipments, and six hundred thousand dollars ($600,000) for vehicles under 10,000 pounds gross vehicle weight rating.

(2) The policy's or bond's terms conform to Form MCS-90 or MCS-82, respectively, as defined and set forth in Sections 387.7 to 387.15, inclusive, of Title 49 of the Code of Federal Regulations, or a written decision, order, or authorization to self-insure that complies with paragraph (3) of subsection (d) of Section 387.7 of Title 49 of the Code of Federal Regulations, adopted pursuant to Section 30 of

the Motor Carrier Act of 1980 (49 U.S.C. Sec. 10927).

(d) As proof of compliance with subdivision (a), an insurer or surety which provides the insurance coverage or surety bond required by this section shall agree to provide the department with 30 days' notice prior to cancellation of the endorsement or termination of the bond defined in subdivision (c). An insurer or surety may demonstrate the ability of the transporter to respond to public liability by submitting a copy of the completed Form MCS-90 or MCS-82, as specified in Section 387.15 of Title 49 of the Code of Federal Regulations, to the department, along with the agreement required by this subdivision.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 772

An act to amend Section 69051 of, and to add Article 9 (commencing with Section 69111) to Chapter 7 of Division 22 of, the Food and Agricultural Code, relating to the California Pistachio Commission.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 69051 of the Food and Agricultural Code is amended to read:

69051. The powers and duties of the commission, subject to Sections 69032 and 69033, shall include, but are not limited to, all of the following powers and duties:

(a) To adopt and from time to time alter, rescind, modify, and amend all proper and necessary bylaws, rules, regulations, and orders for carrying out this chapter, including rules for appeals from any bylaw, rule, regulation, or order of the commission.

(b) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with, or determined reasonably necessary for, proper or advisable effectuation of the purposes of this chapter.

(c) To appoint its own officers, including a chairman, one or more vice chairmen, and any other officers as it determines necessary. The officers shall have the powers and duties delegated to them by the commission.

(d) To employ a manager to serve at the pleasure of the

commission as president and chief executive officer of the commission, and other personnel, including legal counsel, that is necessary to carry out this chapter. The commission may retain a management firm or the staff from any board, commission, or committee of the state to perform the functions prescribed by this subdivision under the control of the commission. If the manager engages in any conduct which the director determines is not in the public interest or which is in violation of this chapter, the director shall notify the commission of the conduct and request that corrective and, if appropriate, disciplinary action be taken by the commission. If the commission fails or refuses to correct the situation or to take disciplinary action satisfactory to the director, the director may suspend or discharge the manager.

(e) To fix the compensation for all employees of the commission.

(f) To appoint committees composed of both members and nonmembers of the commission, such as a processor advisory committee, to advise the commission in carrying out this chapter.

(g) To establish offices and incur expenses, invest funds in the permissible investments as specified in Section 58939, enter into any and all contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments as may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(h) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts shall be subject to an annual audit by an auditing firm selected by the commission with the concurrence of the director. The audit shall be made a part of an annual report to all producers of pistachios, copies of which shall also be submitted to the Legislature and the Department of Food and Agriculture. In addition, the director may, as he or she determines necessary, conduct or cause to be conducted a fiscal and compliance audit of the commission. The Department of Finance may audit books, records, and accounts of the commission at any time.

(i) To promote the sale of pistachios by advertising and other promotional means, including cost-sharing advertising, for the purpose of maintaining and expending present markets and creating new and larger intrastate, interstate, and foreign markets for pistachios, and to educate and instruct the public with respect to the uses, healthful properties, and nutritional value of pistachios.

(j) To educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling pistachios, make market surveys and analyses, and present facts to, and negotiate with, state, federal, and foreign agencies on matters which affect the marketing of pistachios.

(k) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements as the commission may determine necessary for the promotion of the sale of pistachios.

(*l*) To conduct and contract with others to conduct scientific

research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere, respecting cultural and production practices, and marketing and distribution of pistachios. In connection with the research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(m) To publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to the pistachio industry, to producers and processors.

(n) To establish an assessment rate to defray operating costs of the commission. Any assessment rate established pursuant to this chapter may be modified in accordance with Section 69081.

(o) To establish an annual budget according to accepted accounting practices. The budget shall be concurred in by the director prior to disbursement of funds, except for disbursements made pursuant to subdivision (e).

(p) To submit to the director for his or her concurrence, an annual statement of contemplated activities authorized under this chapter, including advertising, promotion, marketing research, and production research.

SEC. 2. Article 9 (commencing with Section 69111) is added to Chapter 7 of Division 22 of the Food and Agricultural Code, to read:

Article 9. Marketing Order Involvement

69111. The commission may recommend to the director that he or she adopt pistachio quality standards, product labeling, or engage in any other activity authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21). The adoption of standards or any of these activities shall be in accordance with the procedures specified in that act unless otherwise specified in this article.

69112. Any activity recommended by the commission shall not become operative until approved in the manner specified in Section 69062.

69113. Any activity adopted pursuant to this article shall be implemented by the director at the beginning of the marketing season next succeeding the date on which they are approved by the director.

69114. The commission shall serve as the advisory body to the director on all matters pertaining to this article.

CHAPTER 773

An act to amend Sections 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 525, 526, 527, 528, 530, 531, 532, and 534 of, to amend the heading of Article 4. 5 (commencing with Section 514) of Chapter 1 of Part 2 of Division 1 of, to add Sections 519.5, 520.1, 520.2, 520.3, 520.4, 521.5, and 526.5 to, and to repeal and add Section 529 of, the Health and Safety Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. The heading of Article 4.5 (commencing with Section 514) of Chapter 1 of Part 2 of Division 1 of the Health and Safety Code is amended to read:

Article 4.5. Registration of Environmental Health Specialists

SEC. 2. Section 514 of the Health and Safety Code is amended to read:

514. It is the intent of the Legislature in adopting this article to safeguard the health, safety, and general welfare of the public by the registration of those environmental health professionals practicing as environmental health specialists who have completed an approved environmental health or science curriculum and who are qualified to work, or are working, within the scope of the field of environmental health as defined by this article.

In adopting this article, it is recognized that the field of environmental health is a dynamic field which is continually evolving into new and complex areas of concern. This article recognizes the existence of overlapping functions with other professions carrying out specific activities which may include some aspects of the field of environmental health. The title of a person registered under this article shall be environmental health specialist. Use of the term sanitarian or registered sanitarian in statutes and regulations shall mean registered environmental health specialists. A valid registered sanitarian registration shall on January 1, 1989, be a valid registration as an environmental health specialist. The State Department of Health Services shall provide a new certificate of registration to that effect.

SEC. 3. Section 515 of the Health and Safety Code is amended to read:

515. This article does not require registration of individuals, such as industrial hygienists, health physicists, safety engineers, civil engineers, land surveyors, other registered professional engineers, or others with overlapping functions. This article does not require

registration of individuals performing duties described in subdivision (e) of Section 517, unless those individuals represent themselves as registered environmental health specialists. It is not the intent of this article to require city or county health departments or local health districts to employ only registered environmental health specialists, environmental health specialist trainees, or those qualified for registration in jobs involving those overlapping functions. It is the sole purpose of this article to safeguard the health, safety, and general welfare of the public from adverse environmental factors, to register those environmental health professionals practicing as environmental health specialists who have completed an approved environmental health or science curriculum, and are qualified to work, or are working, in the public or private sector in the field of environmental health within the scope of practice as defined in this article, and to protect the public from individuals performing as environmental health specialists without proper qualifications.

SEC. 4. Section 516 of the Health and Safety Code is amended to read:

516. The department may, upon recommendation of the Environmental Health Specialist Registration Committee appointed pursuant to Section 523, adopt any regulations necessary to accomplish the purposes of this article.

SEC. 5. Section 517 of the Health and Safety Code is amended to read:

517. The words and phrases defined in this section shall have the following meaning, unless the context clearly indicates otherwise:

(a) "Department" means the State Department of Health Services.

(b) "Committee" means the Environmental Health Specialist Registration Committee.

(c) "Registered environmental health specialist" means an environmental health professional educated and trained within the field of environmental health who is registered in accordance with the provisions of this article. A registered environmental health specialist registered under this article also meets the requirements for registration as an environmental assessor pursuant to Section 25570.

(d) "Environmental health specialist trainee" means a person who possesses (1) a minimum of a bachelor's degree, including 30 semester units of basic sciences, from a department approved educational institution or an educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American Council on Education, but who has not completed the specific coursework and experience requirements in the field of environmental health as required by Section 521 for registration, and (2) who is engaged in an approved environmental health training plan.

(e) "Scope of practice in environmental health" means the practice of environmental health by registered environmental

health specialists in the public and private sector within the meaning of this article and includes, but is not limited to, organization, management, education, enforcement, consultation, and emergency response for the purpose of prevention of environmental health hazards and the promotion and protection of the public health and the environment in the following areas: food protection; housing; institutional environmental health; land use; community noise control; recreational swimming areas and waters; electromagnetic radiation control; solid, liquid, and hazardous materials management; underground storage tank control; onsite septic systems; vector control; drinking water quality; water sanitation; emergency preparedness; and milk and dairy sanitation pursuant to Section 33113 of the Food and Agricultural Code. Activities of registered environmental health specialists shall be regulated by the department upon the recommendation of the committee.

(f) "Certificate of registration" means a signed document issued by the department as evidence of registration and qualification to practice as a registered environmental health specialist under this article. The certificate shall bear the designation "registered environmental health specialist" and shall show the name of the person, date of issue, registration number, and seal.

(g) "Experience requirement" means on-the-job training and experience, as stated in this article, which all environmental health specialist trainees shall complete prior to obtaining eligibility for the environmental health specialist examination.

(h) "Approved environmental health training plan" means a training program in an organization which plans to utilize environmental health specialist trainees and has on file with the department a copy of its training plan which conforms with the requirements of Section 521.5, and which has been approved by the committee.

(i) "Director" means the State Director of Health Services.

SEC. 6. Section 518 of the Health and Safety Code is amended to read:

518. Except for the design of onsite septic systems, nothing in this article shall authorize registered environmental health specialists to design any of the fixed works defined in Section 6731 of the Business and Professions Code.

SEC. 7. Section 519 of the Health and Safety Code is amended to read:

519. The governing body of a city, county, or local health district may employ on a full-time basis one or more registered environmental health specialists, each of whom shall be a registered environmental health specialist as provided for in this article for the purpose of the enforcement of statutes related to public health, and the rules and regulations of the State Department of Health Services, and any local ordinances of a city, county, or local health district that relate to activities under subdivision (e) of Section 517. However, any person who is known as an environmental health specialist

trainee may be employed to work under the supervision of a registered environmental health specialist, until he or she is qualified by examination as provided under Section 522, for a period which shall not exceed three years. Prior to employment, the trainee shall have a current evaluation letter from the department stating that the education qualifications specified in Section 521 have been met.

SEC. 8. Section 519.5 is added to the Health and Safety Code, to read:

519.5. Any person may make an application to the department to be registered as an environmental health specialist. The department shall accept complete applications if accompanied by the required fees.

(a) Application submission, completion and notification.

(1) Receipt of an application for a certificate of registration as an environmental health specialist shall be deemed to be the date the application is date stamped by the department.

(2) An application for a certificate of registration as an environmental health specialist is considered complete when a completed application form supplied by the department, proof of successful passage of the registered environmental health specialist examination, as specified in Section 522, and the initial biennial registration fee are received by the department.

(3) Written notification by the department to applicants shall be deemed to occur on the date the notifications are postmarked.

(b) Application review period.

The department shall notify the applicant in writing within 15 working days of receipt of an application for a certificate of registration as an environmental health specialist that the application is completed and accepted for filing, or that the application is deficient and what specific information, documentation, or fee, is required to complete the application.

(c) Application decision period.

The department, within three calendar days of filing of a completed application, shall reach a decision regarding the application for a certificate of registration as an environmental health specialist.

(d) The department shall issue certificates of registration to qualified applicants.

(e) Duplicate certificate/card of registration shall be issued to individuals who hold valid registration as an environmental health specialist upon payment of ten dollars ($10) for a duplicate certificate and five dollars ($5) for a duplicate registration card.

SEC. 9. Section 520 of the Health and Safety Code is amended to read:

520. The requirements for registration of environmental health specialists shall be a minimum of a bachelor's degree from a department approved educational institution or an educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American

Council on Education, with coursework prescribed as follows:

	Basic Requirements	Experience	Training
I.	30 semester or 45 quarter basic science units including each of the following: General Chemistry Lecture and Laboratory General Physics Lecture and Laboratory or Organic Chemistry Lecture and Laboratory General Microbiology Lecture and Laborartory General Biological Science Lecture and Laboratory Calculus or College Algebra	18 months	600 hrs.
II.	45 semester or 68 quarter basic science units including the following: Three of the required science courses shall include a laboratory: General Chemistry Organic Chemistry General Physics General Microbiology General Biological Science Calculus or College Algebra	one year	450 hrs.
III.	30 semester or 45 quarter basic science units including each of the following: General Chemistry Lecture and Laboratory General Physics Lecture and Laboratory or Organic Chemistry Lecture and Laboratory General Microbiology Lecture and Laboratory General Biological Science Lecture and Laboratory Calculus or College Algebra plus Three semester or four quarter unit courses in each of the following: Epidemiology Statistics Public Administration or Environmental Health Administration and; 10 semester or 15 quarter units in environmental health science, including one or more of the following:	9 months	300 hrs.

water quality, waste management, food and consumer protection, housing and institution sanitation, vector control, recreational health, air quality, milk and dairy products, occupational health, electromagnetic radiation, noise control, toxicology, soil science, or land use development.

IV.	45 semester or 68 quarter basic science units including the following: Three of the following required science courses shall include a laboratory: General Chemistry Organic Chemistry General Physics General Microbiology General Biological Science Calculus or College Algebra plus Three semester or four quarter unit courses in each of the following: Epidemiology Statistics Public Administration or Environmental Health Administration and; 10 semester or 15 quarter units in Environmental Health Science, including one or more of the following: water quality, waste management, food and consumer protection, housing and institution sanitation, vector control, recreational health, air quality, milk and dairy products, occupational health, electromagnetic radiation, noise control, toxicology, soil science, or land use development.	6 months	200 hrs.
V.	Possess a minimum of a bachelor's degree in environmental health from an institution approved by the committee, which includes: One year of lecture and laboratory coursework in each of the following: General Chemistry General Physics	None required	None required

General Biological Science, and
One semester course in:
Calculus or College Algebra
Organic Chemistry
General Microbiology with Laboratory
Public Administration or Environmental Health Administration
Epidemiology
Statistics
Field Orientation Course in Environmental Health

Fifteen semester units of environmental health science courses selected from:

water quality, waste management, food and consumer protection, housing and institution sanitation, vector control, recreational health, air quality, milk and dairy products, occupational health, electromagnetic radiation, noise control, toxicology, soil science, or land use development.

All basic science coursework including mathematics shall be equal to that acceptable in an approved environmental health degree program.

SEC. 9.2. Section 520.1 is added to the Health and Safety Code, to read:

520.1. Educational institutions requesting approval of their environmental health degree program shall first submit their program to the committee for review. If the program meets the prescribed curricula in Section 520 it shall be submitted to the department for approval.

SEC. 9.4. Section 520.2 is added to the Health and Safety Code, to read:

520.2. Those persons who meet the educational, experience, and training requirements of Section 520 shall be eligible for admission to the examination for registration as an environmental health specialist.

SEC. 9.6. Section 520.3 is added to the Health and Safety Code, to read:

520.3. Any person who has applied for environmental health specialist registration, or who is enrolled in an approved environmental health science curriculum, or who is certified by his or her employer as serving as an environmental health specialist trainee in an approved environmental health program on or before December 31, 1988, shall be admitted to the written examination on the basis of the requirements existing on December 31, 1988.

SEC. 9.8. Section 520.4 is added to the Health and Safety Code, to read:

520.4. A person who possesses a minimum of a bachelor's degree from a department-approved educational institution or an

educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American Council on Education and has been employed as a certified dairy inspector in the State of California for at least 24 months immediately prior to applying for admission to the environmental health specialist registration examination, shall be eligible for admission to the examination for registration as an environmental health specialist.

SEC. 10. Section 521 of the Health and Safety Code is amended to read:

521. Any person meeting the educational qualifications pursuant to Section 520, but who does not meet the experience requirement of that section, may make application to the department on a form prescribed by the department for acceptance as an environmental health specialist trainee. The department shall accept complete applications if accompanied by the required fees.

SEC. 11. Section 521.5 is added to the Health and Safety Code, to read:

521.5. An approved environmental health training plan shall include program elements in the training, duration of training, and types of training.

(a) Program elements, duration of training, and experience are as follows:

(1) All environmental health specialist trainees, shall complete a basic training period in an approved program. The training period shall include training in at least six elements, with three of the elements selected from the following basic elements:

(A) Food protection.

(B) Solid or liquid waste management, or both.

(C) Water supply.

(D) Housing and institutions.

(E) Bathing places.

(F) Vector control.

(G) Hazardous materials management or underground tank program, or both.

The remaining three elements may include any other basic element or any of the following elements: air sanitation, safety and accident prevention, land development and use, disaster sanitation, electromagnetic radiation, milk and dairy products, noise control, occupational health, and rabies and animal disease control.

(2) Training in each of three basic elements shall be not less than 20 percent of the total required training hours. Time spent in the remaining three elements shall be not less than 40 percent of the total required training hours. The employer shall designate the methods, elements, and types of training or experience for the remaining part of the time required for entrance to the registered environmental health specialist examination as specified in Section 522. The specified training may be cumulative and scheduled at the discretion of the employing agency over this period.

(3) The training may be accomplished by assignments chosen by the employing agency and under the supervision of a registered environmental health specialist.

(4) For those environmental health specialist trainees requiring more than one year of experience, the additional experience will be in one or more elements of environmental health listed in this section and may be outside of a local environmental health program.

(5) Training and experience gained working for governmental or a nonprofit entity, or both, may be counted toward the first-year training experience requirement if the training and experience is determined by the department to be equivalent to what would be gained in a local environmental health jurisdiction.

(b) Types of training:

The training program shall be integrated into the environmental health specalist trainee's job assignment and shall include items (1) and (2) and may include items (3), (4), and (5):

(1) A minimum of 20 hours per month of field instruction with direct supervision by a registered environmental health specialist for the first six months of employment. (The total minimum requirement in this area shall be 150 hours.)

(2) Independent time with adequate supervision and guidance.

(3) Office training with pretesting and posttesting.

(4) Lectures.

(5) Adequate office time to review and study.

(c) Requirements for certification of training:

(1) Environmental health specialist trainees shall receive their training from the department or agency that has a training plan approved by the committee.

(2) A daily log for the certification of the environmental health specialist trainee shall be maintained by the Director of Environmental Health.

(A) A daily log covering elements and hours spent of all training shall be kept by the environmental health specialist trainees, and verified by the trainer or supervisor on a weekly basis.

(B) Short narrative reports or copies of the monthly schedule of the environmental health specialist trainee's training and progress shall be submitted by the training coordinator to the director every month throughout the traineeship.

(C) The Director of Environmental Health shall review the trainee's records on a monthly basis and shall certify on a quarterly basis that the records of training are accurate.

(D) The Director of Environmental Health shall notify the department within 30 days of the date an environmental health specialist trainee is hired or terminated.

(E) Copies of the environmental health specialist trainee's log, as well as the narrative reports or copies of monthly schedules shall be retained in the personnel file of the environmental health specialist trainee for at least one year after the environmental health specialist trainee successfully completes the registered environmental health

specialist examination.

(3) When an environmental health specialist trainee completes the training program, the Director of Environmental Health shall forward certification to the department. This certification shall include the program areas, length of time, dates for the areas of training and a statement that the environmental health specialist trainee followed the approved training plan.

(d) Those jurisdictions that cannot provide the required training elements within their jurisdictions shall initiate a program of training exchange with another jurisdiction having an approved training program.

SEC. 12. Section 522 of the Health and Safety Code is amended to read:

522. (a) On and after January 1, 1989, only persons who meet the educational and experience requirements as established under Section 520 shall be eligible for admission to examination for registration as an environmental health specialist.

(b) The professional examination shall be prescribed by the department with the concurrence of the committee, and a passing score on the examination shall be required prior to registration.

(c) An applicant who twice fails to pass the written examination shall not be eligible to be reexamined a third time until at least one year has elapsed from the date of the second examination. An applicant who fails the third examination shall not be eligible to take the examination a fourth time until two years have elapsed from the date of the third examination. Thereafter, the examination may not be taken more frequently than once in two years. Reapplication shall be made by submitting a new application with the required fee.

SEC. 13. Section 523 of the Health and Safety Code is amended to read:

523. (a) An Environmental Health Specialist Registration Committee shall be appointed to advise and to make recommendations to the department with respect to, and to take other actions as described in this article for the establishment of rules and regulations necessary to ensure, the proper administration and enforcement of the registration of environmental health specialists whose duties in public health and environmental health require knowledge and skills in the physical, biological, and environmental health sciences and whose performance of professional duties is necessary for the promotion of life, health, and well being of the public.

The members of the former Sanitarian Registration Certification Committee shall serve as members of the new committee until the expiration of their terms.

(b) The committee shall consist of the Chief of the Environmental Planning and Local Health Services Branch, State Department of Health Services, or the designee of the chief, who shall serve as executive officer but who shall not vote, and the following 10 members who are residents of the state:

(1) Two members appointed by the director from the California Conference of Directors of Environmental Health who shall be environmental health specialists with at least two years' experience as directors of environmental health in this state.

(2) Three members appointed by the director, each of whom shall be a qualified, practicing environmental health specialist registered in California for a period of five or more years. For purposes of this subdivision:

(A) One member shall be employed in the public sector at the time of appointment.

(B) One member shall be employed in the private sector at the time of appointment.

(C) One member shall be from the California Environmental Health Association.

(3) One member appointed by the director from the California Conference of Local Health Officers.

(4) Two members appointed by the director from the environmental health faculty of those California universities and colleges with approved curricula leading to a degree in environmental health.

(5) Two public members who have not been engaged at any time within five years immediately preceding their appointment in pursuits which lie within the field of environmental health or the profession regulated by the committee of which they are members. The Senate Rules Committee shall appoint one public member and the Speaker of the Assembly shall appoint one public member.

SEC. 14. Section 525 of the Health and Safety Code is amended to read:

525. (a) The members of the committee shall, annually, in the month of April, elect from their number a chairperson and a secretary.

(b) The committee shall meet at least twice annually and at such other times as it may determine to evaluate applications for registration as environmental health specialists, to review and update examinations, to prepare and recommend reports relative to the administration of this article, and to transact all other business as may be necessary to carry out the provisions of this article.

(c) The committee may hold informal hearings for denial, suspension, refusal to renew, and revocation of registrations for environmental health specialists as provided in Section 530.

(d) The committee may hold informal hearings for the purpose of administrative items, make the necessary determinations in conjunction therewith, and issue recommendations to the department consistent with the findings. The department may designate the committee to appoint one or more of its members to serve as a hearing agent. The agent or representatives shall conduct hearings in the manner provided by law.

(e) Six members of the committee shall constitute a quorum and special meetings of the committee shall be called by the executive

officer upon written request by two members of the committee.

(f) The members of the committee shall serve without compensation, but shall receive their actual and necessary expenses incurred in the performance of their duties on the committee. However, no funds shall be disbursed for those purposes without the prior approval of the department.

SEC. 15. Section 526 of the Health and Safety Code is amended to read:

526. (a) The committee shall keep a record of its proceedings.

(b) The department shall maintain a register of all applications for registration and retain examination papers and records pertaining thereto for a length of time to be determined by the department.

(c) The department shall maintain a current registry of all registered environmental health specialists and all environmental health specialist trainees in the state.

(d) Individuals registered under provisions of this article are responsible for assuring that the department has a current mailing address for them.

SEC. 16. Section 526.5 is added to the Health and Safety Code, to read:

526.5. A registered environmental health specialist may maintain registration under a retired biennial registration provided the following requirements are met:

(a) Has been a working registered environmental health specialist in California for at least 10 years in an area covered in subdivision (e) of Section 517, unless receiving an on-the-job disability before the 10 years of service as a registered environmental health specialist has elapsed.

(b) Is at least 50 years old or collecting retirement benefits, or both.

(c) Not working in a job requiring registration as an environmental health specialist. A person who pays a retired biennial fee shall be registered only as an inactive retired registered environmental health specialist.

SEC. 17. Section 527 of the Health and Safety Code is amended to read:

527. (a) A nonreturnable fee, shall be paid by a person for each application for registration, application for examination, and biennial renewal.

(b) Fees shall not exceed the actual administrative costs of the program. Fees, except retired and penalty fees, shall be subject to the provisions of Section 113. The actual dollar figure charged shall be rounded to the nearest whole dollar amount. The biennial renewal fee-retired shall be twenty-five dollars ($25).

(c) The nonreturnable biennial renewal fee, shall be paid by each registered environmental health specialist on or before the first day of January of every second year, or on any other date which is determined by the department. Each registered environmental health specialist registered pursuant to this article, shall first pay the

biennial fee at the time of initial registration to cover the calendar year in which registration is acquired and the following calendar year. Registrations not maintained as required by this subdivision are suspended and remain invalid during the period of suspension. Suspended registrations become revoked three years after the date of suspension. Notwithstanding the provisions of the Government Code, the executive officer shall revoke suspended registrations after three years from the date of suspension for nonpayment of fees.

(d) An additional penalty fee equal to 50 percent of the biennial renewal fee for each year of delinquency or portion thereof shall be paid by each person who fails to pay the fee required by subdivision (c) within 30 days of the established due date. All accumulated penalty fees shall be paid prior to any revalidation of registration.

(e) The department shall receive and account for all money received pursuant to this article and shall deposit it with the Treasurer who shall keep the money in a separate fund to be known as the "Registered Environmental Health Specialist Fund," which fund is hereby created.

(f) Notwithstanding Section 13340 of the Government Code, funds collected pursuant to the provisions of this article are continuously appropriated without regard to fiscal year to pay expenses of the department to administer the provisions of this article.

(g) The following fees are hereby established and shall be annually adjusted as required by subdivision (b):

(1) Application fee — sixty-nine dollars ($69).

(2) Examination fee — sixty dollars ($60).

(3) Biennial renewal fee — active eighty-seven dollars ($87).

SEC. 18. Section 528 of the Health and Safety Code is amended to read:

528. The department upon recommendation of the committee, may, by regulation, establish the requirement and standards for continuing education for registered environmental health specialists. The standards shall be established in a manner to assure that a variety of forms of continuing education are available to registered environmental health specialists.

SEC. 19. Section 529 of the Health and Safety Code is repealed.

SEC. 20. Section 529 is added to the Health and Safety Code, to read:

529. A valid registration as an environmental health specialist under this article shall only be issued to a person who has:

(a) Met the applicable education and experience requirements.

(b) Successfully passed the examination for registration.

(c) Submitted a complete application in accordance with Section 519.5.

(d) Paid the fees required in Section 527.

(e) Not committed acts specified in subdivision (a) of Section 530.

SEC. 21. Section 530 of the Health and Safety Code is amended to read:

530. (a) Notwithstanding any other provisions of this article, the department upon the recommendation of the committee may suspend, deny, refuse to renew, or revoke a registration certificate issued under the provisions of this article after sufficient notice and an opportunity for a hearing and upon findings that the registered environmental health specialist has:

(1) Knowingly made a false statement of fact required to be revealed in the application for registration.

(2) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of an environmental health specialist.

(3) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(4) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(b) The procedure to deny, suspend, refuse to renew, or revoke an environmental health specialist registration certificate pursuant to this section shall be as follows:

(1) All cases, complaints, or allegations charging a violation of this subdivision shall be made in writing and submitted to the department.

(2) The department shall make a preliminary investigation by:

(A) Obtaining copies of all pertinent written documents (laws, reports, contacts, and correspondence).

(B) Interviewing, in person or by telephone, of all individuals involved with the issue.

(3) The department shall compile the information into a confidential case document which includes:

(A) A description of the complaint.

(B) A chronology of events.

(C) Results of the interviews.

(D) Copies of the written documents.

(4) The case document shall be submitted to each member of the committee requesting their recommendation whether or not the information warrants further investigation and an informal hearing.

(5) The department shall review committee recommendations and the preliminary investigation findings and then decide whether to dismiss the complaint or proceed to an informal committee hearing. Dismissal of the charges shall be followed by a letter to both complainant and the registered environmental health specialist involved explaining the department's action.

(6) If the decision is made to proceed with an informal hearing, the department shall request the committee to appoint one or more hearing officers to hear the case.

(A) All parties shall be notified of the time and place of the hearing.

(B) An investigation of the issue may be made by an independent professional investigator if it is felt warranted by the department and

the committee. The investigation results shall be submitted to the department, committee hearing officers, complainant, and respondent prior to the hearing.

(C) The informal hearing shall permit the right to be heard (with an attorney, if desired) and the proceedings recorded.

(D) Upon the finding that a violation of this section occurred, the following disciplinary ranges may be recommended to the department by committee:

(i) Knowingly made a false statement of fact required to be revealed in the application for registration.

(I) Maximum: Revocation.

(II) Minimum: Fifteen-day suspension. Range depends on whether or not the registration was falsely approved.

(ii) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of a registered environmental health specialist.

(I) Maximum: Deny, refuse to renew, or revocation of registration.

(II) Minimum: Ninety days actual suspension.

(iii) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of registration.

(I) Maximum: Revocation.

(II) Minimum: Seven day actual suspension.

(iv) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(I) Maximum: Revocation.

(II) Minimum: Ninety days suspension stayed for three years on the following conditions of probation.

—Forty-five days actual suspension.

—The respondent shall obey all laws and regulations related to the practice of environmental health.

(c) Department action to implement denial, suspension, refusal to renew, or revocation of registration under this chapter shall be in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between those provisions of the Government Code and the provisions of this article, the provisions of the Government Code shall prevail.

SEC. 22. Section 531 of the Health and Safety Code is amended to read:

531. The department and the committee may use the following criteria to evaluate the potential for rehabilitation or actual rehabilitation of a person prior to denying, suspending, or revoking registration.

(a) The nature and severity of the act, crime, or violation under consideration as grounds for denial, suspension, or revocation.

(b) The time that has elapsed since commission of the act, crime,

or violation.

(c) The extent to which the applicant has complied with any terms of parole, probation, restitution, or other sanctions imposed upon the applicant.

(d) Evidence of rehabilitation or lack of rehabilitation of the applicant.

SEC. 23. Section 532 of the Health and Safety Code is amended to read:

532. The department shall, upon application therefor and upon payment of the current application and biennial renewal fees, as determined by the department upon the recommendation of the committee by a two-thirds vote, not to exceed one hundred dollars ($100), issue a certificate of registration as an environmental health specialist to any person who holds a certificate of registration as a sanitarian or an environmental health specialist issued by the proper authority of any state or territory, or possession of the United States, if the requirements for the registration of sanitarians or environmental health specialists under which the certificate was issued are consistent with the provisions of this article and at the time the certificate was granted were at least as stringent as those specified in Section 520.

SEC. 24. Section 534 of the Health and Safety Code is amended to read:

534. Only a person who has qualified as a registered environmental health specialist and who holds a valid registration certificate issued in conformance with Section 529 for use in this state shall have the right and privilege of using the title "registered environmental health specialist" and to use the abbreviation "R.E.H.S." after the person's name. Only a person who has qualified as a registered environmental health specialist trainee and has a letter of acceptance issued by the department shall have the right and privilege of using the title "registered environmental health specialist trainee."

Except as permitted in Section 514 any use of the words "registered sanitarian" or other use of the words "registered environmental health specialist" to denote a working title is prohibited.

A person who violates any provision of this section is guilty of a misdemeanor and may be fined a sum not to exceed one thousand dollars ($1,000) or imprisoned for not more than 180 days, or both.

CHAPTER 774

An act to amend and repeal Section 8651.8 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 8651.8 of the Revenue and Taxation Code is amended to read:

8651.8. (a) Notwithstanding Section 8651, the excise tax imposed upon ethanol or methanol containing not more than 15 percent gasoline or diesel fuels shall be one-half the rate prescribed by Section 8651 for each gallon of fuel used.

(b) All references in this code to Section 8651 shall be deemed, with respect to the rate imposed upon ethanol or methanol, to also refer to this section.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 775

An act to amend Sections 4331, 4333, 4334, 4336, and 4339 of, and to amend the heading of Chapter 4 (commencing with Section 4330) of Part 2 of Division 4 of, the Welfare and Institutions Code, relating to brain-damaged persons.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. The heading of Chapter 4 (commencing with Section 4330) of Part 2 of Division 4 of the Welfare and Institutions Code is amended to read:

CHAPTER 4. COMPREHENSIVE ACT FOR FAMILIES AND CAREGIVERS OF BRAIN-IMPAIRED ADULTS

SEC. 1.5. Section 4331 of the Welfare and Institutions Code is amended to read:

4331. As used in this chapter:

(a) "Brain damage," "degenerative brain diseases," and "brain impairment" mean significant destruction of brain tissue with resultant loss of brain function. Examples of causes of the impairments are Alzheimer's disease, stroke, traumatic brain injury, and other impairments described in subdivision (f) of Section 4330.

(b) "Brain-impaired adult" means a person whose brain impairment has occurred after the age of 18.

(c) "Respite care" means substitute care or supervision in support of the caregiver for the purposes of providing relief from the stresses of constant care provision and so as to enable the caregiver to pursue a normal routine and responsibilities. Respite care may be provided in the home or in an out-of-home setting, such as day care centers or short-term placements in inpatient facilities.

(d) "Family member" means any relative or court appointed guardian or conservator who is responsible for the care of a brain-impaired adult.

(e) "Caregiver" means any unpaid family member or individual who assumes responsibility for the care of a brain-impaired adult.

SEC. 2. Section 4333 of the Welfare and Institutions Code is amended to read:

4333. The director shall do both of the following:

(a) Contract with a nonprofit community agency meeting the requirements of this chapter to act as the Statewide Resources Consultant, to be selected through a bid procedure.

(b) With the advice of the Statewide Resources Consultant and within four years from the effective date of this chapter, contract with nonprofit community resource agencies, selected in a manner determined by the director, to establish regionally based resource centers in order to ensure the existence of an array of appropriate programs and services for brain-impaired adults. Each resource center shall place a high priority on utilizing community resources in creating opportunities for families to maintain a brain-impaired adult at home when possible and in other community-based alternatives when necessary.

SEC. 3. Section 4334 of the Welfare and Institutions Code is amended to read:

4334. The Statewide Resources Consultant shall do all of the following:

(a) Serve as the centralized information and technical assistance clearinghouse for brain-impaired adults, their families, caregivers, service professionals and agencies, and volunteer organizations and shall disseminate information, including, but not limited to, the results of research and activities conducted pursuant to its responsibilities set forth in this chapter as determined by the director.

(b) Work closely and coordinate with organizations serving brain-impaired adults, their families, and caregivers in order to ensure, consistent with requirements for quality of services as may be established by the director, that the greatest number of persons

are served and that the optimal number of organizations participate.

(c) Develop and conduct training which is appropriate for a variety of persons, including, but not limited to, all of the following:

(1) Families.

(2) Caregivers and service professionals involved with brain-impaired adults.

(3) Advocacy and self-help family and caregiver support organizations.

(4) Educational institutions.

(d) Provide service and program development consultation to resource centers and to identify funding sources which are available.

(e) Assist the appropriate state agencies in identifying and securing increased federal financial participation and third party reimbursement, including, but not limited to, Title XVIII (42 U.S.C. Sec. 1395 et seq.) and Title XIX (42 U.S.C. Sec. 1396 et seq.) of the federal Social Security Act.

(f) Conduct public social policy research based upon the recommendations of the Director of Mental Health.

(g) Assist the director, as the director may require, in conducting directly, or through contract, research in brain damage epidemiology and data collection, and in developing a uniform terminology and nomenclature.

(h) Assist the director in establishing criteria for, and in selecting resource centers and in designing a methodology for, the consistent assessment of resources and needs within the geographic areas to be serviced by the resource centers.

(i) Conduct conferences, as required by the director, for families, caregivers, service providers, advocacy organizations, educational institutions, business associations, community groups, and the general public, in order to enhance the quality and availability of high-quality, low-cost care and treatment of brain-impaired adults.

SEC. 4. Section 4336 of the Welfare and Institutions Code is amended to read:

4336. (a) The Statewide Resources Consultant shall submit progress reports on its activities as required by the director. These reports shall include, but not be limited to, a summary and evaluation of the activities of the resource centers. Client, caregiver, service, and cost data shall be provided for each operating resource center.

(b) The department, in consultation with the Statewide Resources Consultant, shall report to the Legislature annually on the effectiveness of the resource centers. The report shall be submitted within six months after the end of each fiscal year. The evaluation shall include, but not be limited to, all of the following:

(1) The costs and amount of each type of service provided.

(2) An assessment of the nature and extent of the demand for services which provide respite, and an evaluation of their success in meeting this demand.

(3) Recommendations for improving the effectiveness of the program in deterring the institutionalization of brain-impaired

adults, allowing caregivers to maintain a normal routine and promoting the continuance of quality care for brain-impaired adults.

(4) Recommendations for ensuring that unmet needs of brain-impaired persons and their families are identified and addressed with appropriate programs and services.

SEC. 5. Section 4339 of the Welfare and Institutions Code is amended to read:

4339. The director shall establish criteria for client eligibility, including financial liability, pursuant to Section 4339.5. However, persons eligible for services provided by regional centers or the State Department of Developmental Services are not eligible for services provided under this chapter. Income shall not be the sole basis for client eligibility. The director shall assume responsibility for the coordination of existing funds and services for brain-impaired adults, and for the purchase of respite care services, as defined in subdivision (c) of Section 4331 and described in subdivision (b) of Section 4336, with other departments that may serve brain-impaired adults, including the Department of Rehabilitation, the State Department of Health Services, the State Department of Social Services, the State Department of Developmental Services, the Department of Aging, the Office of Statewide Health Planning and Development, and the State Department of Alcohol and Drug Abuse.

CHAPTER 776

An act to add Section 25250.25 to the Health and Safety Code, relating to used oil.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 25250.25 is added to the Health and Safety Code, to read:

25250.25. (a) Any person who manufactures containers which are produced specifically for the noncommercial storage or transportation of used oil and which are sold in this state to consumers, shall not sell or transfer any of those containers in this state to any person, unless the container meets all of the following requirements:

(1) The used oil cannot leak or unintentionally be spilled from the container with normal handling.

(2) No part of the container that comes in contact with the used oil can absorb any of the used oil being collected and transported.

(3) The following statement shall be printed on a readily visible part of the container in at least 12-point typeface by the manufacturers of the container:

"Used oil is classified as a hazardous waste under California law. Used oil must be recycled properly. Placing used oil into household garbage or commercial dumpsters or pouring it into sewers or onto the ground is prohibited by law."

(b) Any person who manufactures containers which are produced specifically for the noncommercial drainage of used oil and which are sold in this state to consumers, shall not sell or transfer any of those containers in this state to any person unless the container meets the requirements of paragraphs (2) and (3) of subdivision (a).

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 777

An act to amend Section 11005.3 of the Government Code, relating to public leases.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 11005.3 of the Government Code is amended to read:

11005.3. Any state department, board, or commission may lease any real property for the use of the state agency for storage, warehouse, or office purposes provided the lease term does not exceed three years and the annual rental does not exceed twenty-four thousand dollars ($24,000).

Prior approval to engage in any lease activity shall first be obtained from the Department of General Services and the lease agreement shall be subject to approval by the department.

CHAPTER 778

An act to amend Section 39660.5 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 39660.5 of the Health and Safety Code is amended to read:

39660.5. (a) In evaluating the level of potential human exposure to toxic air contaminants, the state board shall assess that exposure in indoor environments as well as in ambient air conditions.

(b) The state board shall consult with the State Department of Health Services, pursuant to the program on indoor environmental quality established under Article 9.5 (commencing with Section 426) of Chapter 2 of Part 1 of Division 1, concerning which potential toxic air contaminants may be found in the indoor environment and on the best methodology for measuring exposure to these contaminants.

(c) When the state board identifies toxic air pollutants that have been found in any indoor environment, the state board shall refer all available data on that exposure and the suspected source of the pollutant to the State Department of Health Services, the Division of Occupational Safety and Health of the Department of Industrial Relations, the State Energy Resources Conservation and Development Commission, the Department of Housing and Community Development, and the Department of Consumer Affairs.

(d) In assessing human exposure to toxic air contaminants in indoor environments pursuant to this section, the state board shall identify the relative contribution to total exposure to the contaminant from indoor concentrations, taking into account both ambient and indoor air environments.

CHAPTER 779

An act to add Section 20894.3 to the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 20894.3 is added to the Government Code, to read:

20894.3. An employee of a contracting agency who is or was absent on military service on the effective date of the contract and who would become or would have become a member if he or she were not so absent becomes or became a member on that effective date, with the same status and rights of membership as if he or she were not or had not been so absent on that effective date. The employee and any other employee of a contracting agency who was absent on military service prior to that effective date shall receive credit as prior service for time during which he or she was absent on military service prior to that effective date provided that employee is entitled to receive prior service credit pursuant to Section 20834, 20834.1, or 20867 and he or she returned to employment of the contracting agency within six months of the termination of his or her active service with the armed forces under conditions other than dishonorable or within six months after any period of rehabilitation afforded by the United States government other than a period of rehabilitation for purely educational purposes.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for the approval of contracts or in the case of contracts made after the effective date of this section, by express provision in the contract making the contracting agency subject to this section.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 780

An act to amend Section 51760.5 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 51760.5 of the Education Code is amended to read:

51760.5. Notwithstanding Section 51760, attendance in work

experience classes or programs maintained by a regional occupational center or regional occupational program shall not receive apportionments from state funds based on average daily attendance unless such classes or programs are in conformance with standards adopted pursuant to Section 52372.

A student enrolled in a vocational education class using the cooperative vocational education methodology conducted by a regional occupational center or program shall not be credited with more than 15 hours of attendance in any calendar week for purposes of the methodology.

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

In order that this act may become effective before the beginning of the 1988–89 school year, it is necessary that this act take effect immediately.

CHAPTER 781

An act to amend Sections 1030, 1032, 1256, 3701, and 4701 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 1030 of the Unemployment Insurance Code is amended to read:

1030. (a) Any employer who is entitled under Section 1327 to receive notice of the filing of a new or additional claim may, within 10 days after mailing of the notice, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the discharge or quit from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available. The period during which the employer may submit these facts may be extended by the director

for good cause.

(b) Any base period employer who is not entitled under Section 1327 to receive notice of the filing of a new or additional claim and is entitled under Section 1329 to receive notice of computation may, within 15 days after mailing of the notice of computation, submit to the department any facts within its possession disclosing whether the claimant left the employer's employ voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available. The period during which the employer may submit these facts may be extended by the director for good cause.

(c) The department shall consider these facts together with any information in its possession. If the employer is entitled to a ruling under subdivision (b) or to a determination under Section 1328, the department shall promptly notify the employer of its ruling as to the cause of the termination of the claimant's employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(d) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving shall be presumed to be without good cause.

(e) An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

SEC. 2. Section 1032 of the Unemployment Insurance Code is amended to read:

1032. If it is ruled under Section 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause or was discharged by reason of misconduct connected with his or her work, or that he or she was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or that he or she left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available, benefits paid to the claimant subsequent to the termination of employment due to the voluntary leaving or discharge, or due to the termination of the temporary employment of a student whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or due to the termination of employment caused by the leaving to accompany or join a spouse, or if it is shown the claimant's discharge or quit from his or her most recent employer was the result of an irresistible compulsion to use or consume intoxicants including alcoholic beverages, which are based upon wages earned from the employer prior to the date of the termination of employment, shall not be charged to the account of the employer, except as provided by Section 1026, unless he or she failed to furnish the information specified in Section 1030 within the time limit prescribed in that section or unless such ruling is reversed by a reconsidered ruling.

For purposes of this section and Section 1030 "spouse" includes a person to whom marriage is imminent.

SEC. 3. Section 1256 of the Unemployment Insurance Code is amended to read:

1256. An individual is disqualified for unemployment compensation benefits if the director finds that he or she left his or her most recent work voluntarily without good cause or that he or she has been discharged for misconduct connected with his or her most recent work.

An individual is presumed to have been discharged for reasons other than misconduct in connection with his or her work and not to have voluntarily left his or her work without good cause unless his or her employer has given written notice to the contrary to the department as provided in Section 1327, setting forth facts sufficient to overcome the presumption. The presumption provided by this section is rebuttable.

An individual whose employment is terminated under the compulsory retirement provisions of a collective bargaining agreement to which the employer is a party, shall not be deemed to have left his or her work without good cause.

An individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse to a place from which it is impractical to commute to the employment. For purposes of this section "spouse" includes a

person to whom marriage is imminent.

An individual shall be deemed to have left his or her most recent work with good cause if he or she elects to be laid off in place of an employee with less seniority pursuant to a provision in a collective bargaining agreement that provides that an employee with more seniority may elect to be laid off in place of an employee with less seniority when the employer has decided to layoff employees.

SEC. 4. Section 3701 of the Unemployment Insurance Code is amended to read:

3701. (a) Any employer who is entitled under Section 3654 to notice of the filing of a primary claim or additional claim and who, within 10 days after mailing of the notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with the employer voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available or whether the claimant's discharge or quit from his or her most recent employer was the result of an irresistable compulsion to use or consume intoxicants including alcoholic beverages, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit these facts may be extended by the director for good cause.

For purposes of this section, "spouse" includes a person to whom marriage is imminent.

(b) The department shall consider these facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 3655, the department shall promptly notify the employer of its ruling as to the cause of the termination of the exhaustee's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which related to a determination is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that

determination.

(c) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 5. Section 4701 of the Unemployment Insurance Code is amended to read:

4701. (a) Any employer who is entitled under Section 4654 to notice of the filing of an application or additional claim and who, within 10 days after mailing of the notice, submits to the department any facts within its possession disclosing whether the individual left the most recent employment with the employer voluntarily and without good cause or was discharged from the employment for misconduct connected with his or her work, or whether the claimant was a student employed on a temporary basis and whose employment began within, and ended with his or her leaving to return to school at the close of, his or her vacation period, or whether the claimant left the employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to the employment, to which a transfer of the claimant by the employer is not available or whether the claimant's discharge or quit from his or her most recent employer was the result of an irresistable compulsion to use or consume intoxicants including alcoholic beverages, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit these facts may be extended by the director for good cause.

For purposes of this section, "spouse" includes a person to whom marriage is imminent.

(b) The department shall consider the facts together with any information in its possession. If the employer is entitled to a determination pursuant to Section 4655, the department shall promptly issue to the employer its ruling as to the cause of the termination of the individual's most recent employment. The employer may appeal from a ruling or reconsidered ruling to an administrative law judge within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling. The 20-day period may be extended for good cause, which shall include, but not be limited to, mistake, inadvertence, surprise, or excusable neglect. The director shall be an interested party to any appeal. The department may for good cause reconsider any ruling or reconsidered ruling within either five days after the date an appeal

to an administrative law judge is filed or, if no appeal is filed, within 20 days after mailing or personal service of notice of the ruling or reconsidered ruling, except that any ruling or reconsidered ruling which relates to a determination which is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of that determination.

(c) For purposes of this section only, if the claimant voluntarily leaves the employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning the leaving within the applicable time period referred to in this section, the leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

CHAPTER 782

An act to amend Sections 11271, 11272, 11274, 11275, and 11276 of the Government Code, relating to state government.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 11271 of the Government Code is amended to read:

11271. The Department of Finance shall determine and may at any time redetermine which funds, other than the General Fund, and which functions or activities of the Department of Water Resources supported by the General Fund, shall be charged a share of administrative costs as to the function supported by any such fund and the amount which shall be charged against any such fund as its fair share of administrative costs. The costs shall be a charge against any fund or special account in the General Fund so designated by the Department of Finance.

For purposes of this section, a special account or fund in the General Fund shall not be considered the General Fund.

SEC. 2. Section 11272 of the Government Code is amended to read:

11272. In determining or redetermining the fair share, the Department of Finance may consider the factors of cost distribution and cost estimation as it deems necessary, except that, as to the

proceeds of those taxes, the use of which is restricted by Article XIX of the California Constitution, the Department of Finance shall assess only those administrative costs ascertained as being necessarily incurred in connection with highway purposes as set forth in the article, and except that, as to funds collected pursuant to Section 221 of the Food and Agricultural Code, the Department of Finance shall assess only those administrative costs incurred in connection with the enforcement of the law under which the funds were derived.

SEC. 3. Section 11274 of the Government Code is amended to read:

11274. The Department of Finance shall certify annually to the Controller the amount determined to be the fair share of administrative costs due and payable from each state agency and shall certify forthwith to the Controller any amount redetermined to be the fair share of administrative costs due and payable from any state agency. The Controller shall forthwith transmit to each state agency from which administrative costs have been determined or redetermined to be due, a statement in writing setting forth the amount of the administrative costs due from the state agency, and stating that, unless a written request to defer payment thereof is filed by the state agency with the Controller within 30 days after the mailing of the statement by the Controller to the state agency, the Controller will transfer the amount of the administrative costs from the special fund or funds chargeable therewith to the General Fund. The Controller shall specify on the statement the special fund appropriations to be charged at the time transfers are made covering the administrative costs.

SEC. 4. Section 11275 of the Government Code is amended to read:

11275. If, upon receipt of the statement provided in Section 11274, the state agency does not have funds available by law for the payment of the administrative costs, or if it has any other reason why the payment of those costs should not be made at the time specified on the statement, the state agency shall, prior to the expiration of the 30-day period referred to in the statement, file with the Controller, in duplicate, a written request to defer payment of those administrative costs, which request shall set forth the reasons why that payment should be deferred. Upon receipt of any request filed because of lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the Department of Finance; and shall defer action to effect the transfer of funds covering the administrative costs referred to in the request until the transfer has been approved by the Director of Finance. The Department of Finance shall notify the Controller of the approval of the deferral request. Upon receipt of any request filed because of any reason other than lack of availability of funds, the Controller shall forthwith transmit one copy of that request to the Board of Control; and shall defer action to effect the transfer of funds until that transfer has been approved by the Board of Control.

SEC. 5. Section 11276 of the Government Code is amended to read:

11276. The Department of Finance may certify at any time during the year to the Controller such amount as it determines, based upon experience of the preceding year, to be a reasonable advance for administrative costs to be made from the appropriation of each state agency supported from a fund, designated in accordance with Section 11271. The Controller shall forthwith transmit to each of these state agencies a statement in writing setting forth the amount of the advance and stating that unless a written request to defer payment thereof because of lack of availability of funds is filed by the state agency with the Department of Finance within 30 days after the mailing of the statement by the Controller to the state agency, the Controller will transfer the amount of the advance from the special fund or funds concerned to the General Fund. The Controller shall specify on the statement the special fund appropriation to be charged.

CHAPTER 783

An act to add Section 14087.54 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 14087.54 is added to the Welfare and Institutions Code, to read:

14087.54. (a) Any county or counties may establish a special commission in order to meet the problems of the delivery of publicly assisted medical care in the county or counties and to demonstrate ways of promoting quality care and cost efficiency.

(b) A county board of supervisors may, by ordinance, establish a commission to negotiate the exclusive contract specified in Section 14087.5 and to arrange for the provision of health care services provided pursuant to this chapter. The boards of supervisors of more than one county may also establish a single commission with the authority to negotiate an exclusive contract and to arrange for the provision of services in those counties. If a board of supervisors elects to enact this ordinance, all rights, powers, duties, privileges, and immunities vested in a county by this article shall be vested in the county commission. Any reference in this article to "county" shall mean a commission established pursuant to this section.

(c) It is the intent of the Legislature that if a county forms a commission pursuant to this section, the county shall, with respect to its medical facilities and programs occupy no greater or lesser status

than any other health care provider in negotiating with the commission for contracts to provide health care services.

(d) The enabling ordinance shall specify the membership of the county commission, the qualifications for individual members, the manner of appointment, selection, or removal of commissioners, and how long they shall serve, and any other matters as a board of supervisors deems necessary or convenient for the conduct of the county commission's activities. A commission so established shall be considered an entity separate from the county or counties, shall file the statement required by Section 53051 of the Government Code, and shall have in addition to the rights, powers, duties, privileges, and immunities previously conferred, the power to acquire, possess, and dispose of real or personal property, as may be necessary for the performance of its functions, to employ personnel and contract for services required to meet its obligations, and to sue or be sued. Any obligations of a commission, statutory, contractual, or otherwise, shall be the obligations solely of the commission and shall not be the obligations of the county or of the state.

(e) Upon creation, a commission may borrow from the county or counties, and the county or counties may lend the commission funds, or issue revenue anticipation notes to obtain those funds necessary to commence operations.

(f) In the event a commission may no longer function for the purposes for which it was established, at such time as the commission's then existing obligations have been satisfied or the commission's assets have been exhausted, the board or boards of supervisors may by ordinance terminate the commission.

(g) Prior to the termination of a commission, the board or boards of supervisors shall notify the State Department of Health Services of its intent to terminate the commission. The department shall conduct an audit of the commission's records within 30 days of the notification to determine the liabilities and assets of the commission. The department shall report its findings to the board or boards within 10 days of completion of the audit. The board or boards shall present a plan to resolve all liabilities of the commission to the department within 30 days upon receipt of these findings.

(h) Notwithstanding the other provisions of this section, upon termination of a commission by the board or boards, the county or counties shall be responsible for any liabilities of the commission until superseded by a department approved plan.

(i) Any assets of a commission shall be disposed of pursuant to provisions contained in the contract entered into between the state and the commission pursuant to this article.

CHAPTER 784

An act to add Section 323 to the Public Utilities Code, relating to the Public Utilities Commission, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 323 is added to the Public Utilities Code, to read:

323. (a) Commencing January 1, 1989, the commission shall cause the complete text of each of its orders and decisions to be published within a reasonable time, not to exceed one year after issuance. The commission shall, on or before January 1, 1990, publish every decision or order issued, but not published, as of January 1, 1989.

(b) With respect to the order or decision in any proceeding not assigned to an administrative law judge pursuant to subdivision (b) of Section 311, the commission may comply with subdivision (a) by publishing the docket number or other identifying number used in its recordkeeping system, the name of the case, the parties to the case, and the ordering language in the case.

(c) If the commission participates in or uses an electronic means of publication of its orders and decisions, the commission shall assure reasonable public access to that system upon the payment of reasonable fees or charges.

SEC. 2. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated to the Public Utilities Commission to assist the commission in publishing the orders and decisions of the commission, pursuant to the following schedule:

(a) From the Public Utilities Commission Utilities Reimbursement Account in the General Fund, seventy-five thousand dollars ($75,000).

(b) From the Public Utilities Commission Transportation Reimbursement Account in the General Fund, seventy-five thousand dollars ($75,000).

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

The Public Utilities Commission has been unable to publish its orders and decisions since 1983, with the result that these recent orders and decisions are not readily available to the public and to those who need to research applicable law and relevant precedent. In order for this situation to be corrected as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 785

An act relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. The Legislative Analyst shall review the discrepancies between Medi-Cal reimbursement rates and payment policies for emergency physician services and nonemergency physician services and report to the Legislature on or before January 1, 1989. The report shall include discussion as to whether these discrepancies are warranted, including consideration of physician overhead costs.

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

In order to provide a timely determination of the adequacy of reimbursement for emergency service, it is necessary that this act take effect immediately.

CHAPTER 786

An act to amend Section 1276.2 of the Health and Safety Code, relating to health.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 1276.2 of the Health and Safety Code is amended to read:

1276.2. Standards and regulations adopted by the State Department of Health Services pursuant to Section 1276 shall not require the use of a registered nurse for the performance of any service or staffing of any position in freestanding skilled nursing or intermediate care facilities which may lawfully be performed or staffed by a licensed vocational nurse pursuant to the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840) of Division 2 of the Business and Professions Code) and applicable federal regulations, when a facility is unable to obtain a registered nurse, except that a licensed vocational nurse employed in accordance with this section shall be a permanent employee of the

facility. The facility shall make provision for a registered nurse to be available for consultation and professional assistance during the hours in which a licensed vocational nurse is used as provided by this section. Nothing in this section shall permit a licensed vocational nurse to act as director of nurses or expand the scope of practice of licensed vocational nurses pursuant to the Vocational Nursing Practice Act. The above provisions apply to staffing for the night and p.m. shifts only, except that if the level of care is determined by the department to be inadequate, the department may require the facility to provide additional staffing.

This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1994, deletes or extends that date.

CHAPTER 787

An act to add Section 587.1 to the Penal Code, relating to crime.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 587.1 is added to the Penal Code, to read:

587.1. (a) Every person who maliciously moves or causes to be moved, without authorization, any locomotive, is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year.

(b) Every person who maliciously moves or causes to be moved, without authorization, any locomotive, when the moving creates a substantial likelihood of causing personal injury or death to another, is guilty of a public offense punishable by imprisonment in the state prison, or in the county jail not exceeding one year.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 788

An act to add Sections 19581.5 and 19582.5 to the Government Code, relating to state employees.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 19581.5 is added to the Government Code, to read:

19581.5. Prior to the scheduling of a contested adverse action or rejection on probation for hearing, the board may require or any party may request a prehearing or settlement conference. The administrative law judge presiding over the settlement conference shall not preside over any subsequent hearing on the contested adverse action or rejection on probation unless agreed to by both parties.

SEC. 2. Section 19582.5 is added to the Government Code, to read:

19582.5. The board may designate certain of its decisions as precedents. Precedential decisions shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3. The board may provide by rule for the reconsideration of a previously issued decision to determine whether or not it shall be designated as a precedent decision. All decisions designated as precedents shall be published in a manner determined by the board.

CHAPTER 789

An act to add and repeal Section 904.4 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 904.4 is added to the Code of Civil Procedure, to read:

904.4. (a) An appeal may be taken from a superior court judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i) of Section 904.1, (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court, (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal

court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court, or (5) any order for monetary sanctions, in an amount not exceeding five hundred dollars ($500), imposed by a court under Sections 128.5 and 2023. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) An appeal may be taken from a municipal or justice court judgment, except (1) an interlocutory judgment, (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) any order for monetary sanctions, in an amount not exceeding five hundred dollars ($500), imposed by a court under Sections 128.5 and 2023.

(c) This section shall apply only in San Diego County. The Legislature finds and declares that, in order to assess the impact of this section on a limited basis before making it applicable on a statewide basis, it is necessary for this section to be applicable for a limited period of time in this county.

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

CHAPTER 790

An act to add and repeal Sections 17204.5 and 17206.5 of the Business and Professions Code, relating to unfair competition.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 9, 1988]

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

SECTION 1. Section 17204.5 is added to the Business and Professions Code, to read:

17204.5. In addition to the persons authorized to bring an action pursuant to Section 17204, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

SEC. 2. Section 17206.5 is added to the Business and Professions Code, to read:

17206.5. In addition to the persons authorized to bring an action pursuant to Section 17206, the City Attorney of the City of San Jose, with the annual consent of the Santa Clara County District Attorney, is authorized to prosecute those actions.

This section shall remain in effect until such time as the population of the City of San Jose exceeds 750,000, as determined by the Population Research Unit of the Department of Finance, and at that time shall be repealed.

SEC. 3. The Legislature finds that there are unique circumstances that warrant permitting the City Attorney of San Jose to bring actions based upon a violation of laws relating to unfair competition, with the annual concurrence of the district attorney, as permitted by this act. Although the City of San Jose does not yet have a population of 750,000 and, accordingly, cannot bring those actions under existing law, because the size of the city is close to that population requirement, and because the office of the City Attorney of San Jose has demonstrated its competence, the enforcement of the laws relating to unfair competition will be enhanced by this act.

CHAPTER 791

An act to amend Section 1628 of the Health and Safety Code, relating to blood.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 9, 1988.]

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

SECTION 1. Section 1628 of the Health and Safety Code is amended to read:

1628. (a) No person shall prohibit any individual from doing either of the following:

(1) Making blood donations to be used directly for blood transfusions for an individual designated by the donor when blood is prescribed by a physician and surgeon.

(2) Directing that blood donated by the individual pursuant to paragraph (1) be used in any blood transfusion to the individual designated pursuant to paragraph (1) if that blood type is compatible with that individual's blood type and use of that blood, or the drawing of the blood, is not contraindicated, as determined by a physician and surgeon and the donation was specifically requested by the designee, or in the event that the designee is medically or legally incapable of making the request, by the designee's next of kin, legal guardian, or legal representative.

(b) Subdivision (a) does not exempt any person from complying with all requirements of Chapter 4 (commencing with Section 1600) of Division 2.

(c) Donations pursuant to this section shall be made through a licensed blood bank during the bank's normal working hours.

(d) Blood donated under this section may be used for individuals other than the individual for whom the blood was designated

pursuant to paragraph (1) of subdivision (a) either: (1) when it is determined by that individual's prescribing physician and surgeon, in conjunction with the blood bank, that there is a more immediate need, or, (2) with the donor's consent. The donor may not, however, redesignate the use of his or her blood but may only release it to a licensed blood bank or transfusion service.

When blood is released for use by someone other than the designee under paragraph (1) of subdivision (a), only the special costs provided for in subdivision (e) shall be charged to the original designee under paragraph (1) of subdivision (a), except that for any unit of blood released at the request of a blood collection center prior to the time the blood is needed by the designee in which case the transfusion service shall bear these costs.

(e) When a blood bank collects a donor unit of blood or blood product whose use is designated by the donor, any additional costs, limited to the actual technical and administrative costs of drawing, storing, and designating the blood, shall be charged to the designee. Charges assessed under this subdivision shall not exceed those charges levied by the blood bank for the costs of drawing, storing, and designating autologous blood or blood products.

(f) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 792

An act to add Section 22230.1 to the Education Code, relating to the State Teachers' Retirement System, and making an appropriation therefor.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 22230.1 is added to the Education Code, to read:

22230.1. The board shall, commencing on July 1, 1989, send a copy of the benefit payment information to any retirant, disabilitant, or beneficiary who has payments transmitted directly to a financial institution pursuant to Section 22230.

SEC. 2. There is hereby appropriated from the Teachers'

Retirement Fund to the State Teachers' Retirement System the sum of one hundred thirty-four thousand two hundred thirty-eight dollars ($134,238) for expenditure for the implementation of Section 22230.1 of the Education Code.

CHAPTER 793

An act to amend Section 1797.1 of, and to add Section 1797.7 to, the Civil Code, and to amend Sections 18045.5 and 18045.6 of, and to add Section 18021.7 to, the Health and Safety Code, relating to mobilehomes, and making an appropriation therefor.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 1797.1 of the Civil Code is amended to read:

1797.1. As used in this chapter:

(a) "Dealer" means any person who is a dealer within the meaning of Section 18002.6 of the Health and Safety Code.

(b) "Mobilehome" and "manufactured home" have the meanings, respectively, defined in Sections 18007 and 18008 of the Health and Safety Code.

(c) "Substantial defects in materials and workmanship" means defects objectively manifested by broken, ripped, cracked, stained, or missing parts or components, or workmanship resulting in improper function of materials, components, appliances, or systems as installed or manufactured by the dealer or manufacturer.

SEC. 2. Section 1797.7 is added to the Civil Code, to read:

1797.7. The manufacturer and dealer shall complete warranty service to correct all substantial defects within 90 days of receiving the buyer's written notice specified in subdivision (b) of Section 1797.3, unless there are circumstances which are beyond the control of the dealer or manufacturer.

SEC. 3. Section 18021.7 is added to the Health and Safety Code, to read:

18021.7. (a) In addition to other remedies provided in this part, the Director of Housing and Community Development or his or her designee may issue a citation which assesses a civil penalty payable to the department to any licensee violating Section 18035, 18035.1, 18035.2, or 18035.3 or subdivision (d) of Section 18060 or subdivision (j) of Section 18061.5. Each citation and related civil penalty assessment shall be issued no later than six months after discovery of the violation.

(b) The amount of any civil penalty assessed pursuant to subdivision (a) shall be one hundred dollars ($100) for each violation, but shall be increased to two hundred fifty dollars ($250) for each

subsequent violation of the same prohibition for which a citation for the subsequent violation is issued within one year of the citation for the previous violation. The violation or violations giving cause for the citation shall be corrected if applicable, and payment of the civil penalty shall be remitted to the department within 45 days of the date of issuance of the citation. Civil penalties received by the department pursuant to this section shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

(c) Any person or entity served a citation pursuant to this section may petition for, and shall be granted, an informal hearing before the director or his or her designee. The petition shall be a written request briefly stating the grounds for the request. Any petition, to be considered, shall be received by the department within 30 days of the date of issuance of the citation.

(d) Upon receipt of a timely and complying petition, the department shall suspend enforcement of the citation and set a time and place for the informal hearing and shall give the licensee written notice thereof. The hearing shall commence no later than 30 days following receipt of the petition or at another time scheduled by the department pursuant to a request by the licensee or department if good and sufficient cause exists. If the licensee fails to appear at the time and place scheduled for the hearing, the department may notify the licensee in writing that the petition is dismissed and that compliance with terms of the citation shall occur within 10 days after receipt of the notification.

(e) The department shall notify the petitioner in writing of its decision and the reasons therefor within 30 days following conclusion of the informal hearing held pursuant to this section. If the decision upholds the citation, in whole or in part, the licensee shall comply with the citation in accordance with the decision within 30 days after the decision is mailed by the department.

(f) Nothing in this section shall be construed to preclude remedies available under other provisions of law.

SEC. 4. Section 18045.5 of the Health and Safety Code is amended to read:

18045.5. (a) The department shall not issue a manufacturer, distributor, or dealer license to any applicant therefor who does not have an established place of business.

(b) The established place of business shall have an office and, in the case of a manufacturer, shall have a manufacturing area defined by department regulations situated on the same property. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single-unit or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building.

(c) The established place of business shall be open for inspection

of the premises, pertinent records, and manufactured homes, mobilehomes, or commercial coaches by any department representative during business hours.

SEC. 5. Section 18045.6 of the Health and Safety Code is amended to read:

18045.6. (a) (1) If the manufacturer, distributor, or dealer changes the site or location of his or her established place of business, the manufacturer, distributor, or dealer shall immediately, upon making the change, so notify the department. If a manufacturer, distributor, or dealer for any reason whatsoever, ceases to be in possession of an established place of business from and on which he or she conducts the business for which the manufacturer, distributor, or dealer is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the manufacturer's, distributor's, or dealer's license and all relevant records in his or her possession.

(2) The department may place a manufacturer, distributor, or dealer license on an inactive status upon application of the licensee. An inactive license shall remain valid for six months or for the remaining term of the original license, whichever is less.

(b) If the dealer changes to, or adds, another franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, or cancels, or, for any cause whatever, otherwise loses a franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, he or she shall immediately so notify the department.

(c) A dealer's established place of business shall have posted in a place conspicuous to the public the license issued by the department to the dealer and to each salesperson employed by the dealer.

(d) (1) Notwithstanding Section 18050 and this section, a dealer may display manufactured homes, mobilehomes, or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days. As used in this section, "mobilehome fair or exposition" means a display of manufactured homes, mobilehomes, or commercial coaches not limited to one dealer and not in a mobilehome park.

(2) New manufactured homes or mobilehomes, installed pursuant to Section 18613, may also be displayed and sold within a mobilehome park or mobilehome subdivision by dealers. A display home may be used and equipped only for the sale of the displayed home and shall not be used as an established place of business, unless licensed as an established place of business.

(e) All manufactured homes, mobilehomes, or commercial coaches displayed pursuant to subdivision (d) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business and any other information that is required by the department.

(f) The requirements for an office specified in subdivision (b) of Section 18045.5 shall not apply to a display location authorized by subdivision (d), unless licensed as an established place of business.

CHAPTER 794

An act to add Section 460.5 to the Public Utilities Code, relating to carriers.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 460.5 is added to the Public Utilities Code, to read:

460.5. (a) The commission shall prohibit any passenger stage corporation from charging any fare to, or imposing any other charge on, any physically disabled or handicapped passenger which is more than the fare or charge imposed on a passenger who is not physically disabled or handicapped for the same transportation or service, and shall approve no schedule of fares or charges which is discriminatory under this section.

(b) Any special provision made by a passenger stage corporation for assisting a physically disabled or handicapped person in using its transportation service is, for purposes of subdivision (a), a part of the same transportation or service offered to passengers who are not physically disabled or handicapped, and is not a separate service for which an additional charge may be made. Nothing in this section, however, requires a passenger stage corporation to furnish any equipment or assistance for a physically disabled or handicapped person different from or in addition to that which may be required under any other law.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 795

An act to amend Section 1804 of, and to repeal Section 1804 of, the Vehicle Code, relating to driving offenses.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 1345 of the Statutes of 1985, is amended to read:

1804. (a) The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the license is commercial or noncommercial, whether the vehicle was transporting a load required to be transported by a driver certified pursuant to Section 12804.1, whether the operator of the vehicle is required to be certified pursuant to Section 12804.3, the date of hearing, and the judgment.

(b) As to any abstract for which the original arrest and final conviction was for a violation of Section 23101 or 23102, as those sections read before January 1, 1982, or Section 23152 or 23153, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled if it is available to the clerk of the court. All information required to be compiled pursuant to this subdivision shall be kept confidential in the records of the department pursuant to Section 1808.5. The department may use the information for research and statistical purposes and for determining the eligibility of any person to operate a motor vehicle on the highways of this state. The information shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

(c) The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount.

SEC. 2. Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 1345 of the Statutes of 1985, is amended to read:

1804. (a) The abstract shall be made upon a form furnished or approved by the department and shall contain all necessary information to identify the defendant, the date and nature of the offense, the license plate number of the vehicle involved in the offense, whether the vehicle was transporting a load required to be transported by a driver certified pursuant to Section 12804.1, whether the operator of the vehicle is required to be certified pursuant to Section 12804.3, the date of hearing, and the judgment. The abstract shall also indicate whether the vehicle involved in the offense is a commercial motor vehicle, as defined in subdivision (c) of Section 15210.

(b) As to any abstract for which the original arrest and final

conviction was for a violation of Section 23101 or 23102, as those sections read before January 1, 1982, or Section 23152 or 23153, the abstract shall contain a statement indicating the percentage of alcohol, by weight, in the person's blood whenever that percentage was determined by a chemical test. The information regarding the chemical test shall be compiled if it is available to the clerk of the court. All information required to be compiled pursuant to this subdivision shall be kept confidential in the records of the department pursuant to Section 1808.5. The department may use the information for research and statistical purposes and for determining the eligibility of any person to operate a motor vehicle on the highways of this state. The information shall not be released to any other public or private agency, except for research and statistical summary purposes and, for those purposes, the name and address of the person and any other identifying information shall not be disclosed.

(c) The Legislature finds and declares that blood-alcohol percentages have valuable research potential in providing statistical summary information on impaired drivers but that a specific blood-alcohol percentage is only an item of evidence for purposes of criminal and licensing sanctions imposed by law. The Legislature recognizes that the accuracy of the determination of a specific blood-alcohol percentage is not the critical determination in a conviction for driving under the influence of an alcoholic beverage if the blood-alcohol percentage exceeds the statutory amount.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 1345 of the Statutes of 1985, proposed by both this bill and SB 2594. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 1804 of the Vehicle Code, as amended by Section 2 of Chapter 1345 of the Statutes of 1985, and (3) this bill is enacted after SB 2594, in which case Section 1 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 796

An act to amend Sections 1522, 1569.17, and 1596.871 of the Health and Safety Code, relating to care facilities.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 1522 of the Health and Safety Code is amended to read:

1522. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the state department for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting

requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than four calendar days following employment, residence, or initial presence in the community care facility. These fingerprints may be on a card provided by the State Department of Social Services or by a local law enforcement office for the purpose of obtaining a permanent set of fingerprints. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice.

Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the licensee of the criminal convictions, as provided in this subdivision. If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d,

or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (e). The State Department of Social Services shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the state department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a community care facility as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Sections 273d, 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of

the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code and has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years and has the recommendation of the district attorney representing the employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

SEC. 2. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) Any staff person or employee who has frequent and routine contact with the clients. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of clients. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or

other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the licensing agency not later than 20 days following employment, residence, or initial presence in the residential care facility for the elderly. Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a

conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license pursuant to subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4 264.1, or paragraph (1) of Section 273a or Section 273d, or Section 288 or 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

SEC. 3. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of such an applicant pursuant to this section. If it is found that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (e).

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person or employee who has frequent and routine contact with the children. In determining who has frequent contact, any volunteer who is in the facility shall be exempt unless the volunteer is used to replace or supplement staff in providing direct care and supervision of children in care. In determining who has routine contact, staff and employees under direct onsite supervision and who are not providing direct care and supervision or who have only occasional or intermittent contact with clients shall be exempt.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(7) This section does not apply to adult volunteers or adult staff employed by the applicant on an intermittent basis for less than 10 days per month, provided that these adults are under constant supervision by adults who meet the requirements of this section.

(8) This section does not apply to employees of child care and development programs under contract with the State Department of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(c) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the licensing agency not later than four calendar days following employment, residence, or initial presence in the child day care facility.

Within 10 working days of the receipt of these fingerprints, the State Department of Social Services shall submit them to the Department of Justice. If new fingerprints are required for processing, the department shall notify the licensee within five working days of receipt of the fingerprints. If the department has not received the information required by this section within 45 calendar days, it shall request a status report on the fingerprint clearance from the Department of Justice. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the

licensee of the criminal convictions, as provided in this subdivision. If no convictions are recorded, the department shall provide the licensee with a statement of the fact that there are no convictions within 10 working days of receipt of this information from the Department of Justice. If new fingerprints are required for processing, the State Department of Social Services shall notify the licensee within five working days from the date of notification by the Department of Justice that the fingerprints were illegible.

Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, or has been convicted of an offense specified in Section 243.4, 273a, 273d, or subdivision (a) or (b) of Section 368 of the Penal Code, or has been convicted of a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (e). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (e). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered.

(d) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(e) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), or for employment, residence, or presence in a child day care facility as specified in subdivision (c) if

the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a or 273d, or Section 288, 289, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(f) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the department shall verify receipt of the fingerprints.

(g) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office.

CHAPTER 797

An act to add Chapter 4.5 (commencing with Section 1965) to Title 5 of Part 4 of Division 3 of the Civil Code, and to amend Section 1174 of the Code of Civil Procedure, relating to tenancies.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. The Legislature finds and declares that significant but unnecessary friction occurs between landlords and tenants at the termination of a tenancy when each cannot agree upon reasonable procedures for the return of personal property left by a tenant. This disagreement inconveniences the tenant, who needs his or her personal property, and inconveniences the landlord, who is responsible for preserving the property while also attempting to prepare and relet the premises. The Legislature therefore finds that it is necessary to prescribe a reasonable procedure for the return of personal possessions after both voluntary and involuntary terminations of tenancies.

SEC. 2. Chapter 4.5 (commencing with Section 1965) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 4.5. DISPOSITION OF PERSONAL PROPERTY UPON REQUEST OF TENANT

1965. (a) A residential landlord shall not refuse to surrender, to a residential tenant or to a residential tenant's duly authorized representative, any personal property not owned by the landlord which has been left on the premises after the tenant has vacated the residential premises and the return of which has been requested by the tenant or by the authorized representative of the tenant if all of the following occur:

(1) The tenant requests, in writing, within 18 days of vacating the premises, the surrender of the personal property and the request includes a description of the personal property held by the landlord and specifies the mailing address of the tenant.

(2) The landlord or the landlord's agent has control or possession of the tenant's personal property at the time the request is received.

(3) The tenant, prior to the surrender of the personal property by the landlord and upon written demand by the landlord, tenders payment of all reasonable costs associated with the landlord's removal and storage of the personal property. The landlord's demand for payment of reasonable costs associated with the removal and storage of personal property shall be in writing and shall either be mailed to the tenant at the address provided by the tenant pursuant to paragraph (1) or shall be personally presented to the tenant or to the tenant's authorized representative, within five days after the actual receipt of the tenant's request for surrender of the personal property, unless the property is returned first. The demand shall itemize all charges, specifying the nature and amount of each item of cost.

(4) The tenant agrees to claim and remove the personal property at a reasonable time mutually agreed upon by the landlord and tenant but not later than 72 hours after the tender provided for under paragraph (3).

(b) For the purposes of this chapter, "reasonable costs associated with the landlord's removal and storage of the personal property" shall include, but not be limited to, each of the following:

(1) Reasonable costs actually incurred, or the reasonable value of labor actually provided, or both, in removing the personal property from its original location to the place of storage, including disassembly and transportation.

(2) Reasonable storage costs actually incurred, which shall not exceed the fair rental value of the space reasonably required for the storage of the personal property.

(c) This chapter shall not apply when disposition of the personal property has been initiated or completed pursuant to the procedure set forth in Chapter 5 (commencing with Section 1980) or the occupancy is one defined by subdivision (b) of Section 1940.

(d) A landlord who complies with this chapter shall not be liable to any person with respect to that person's personal property that is

given to another person. In the event of conflicting demands, the first timely request for surrender of personal property received by the landlord shall prevail.

(e) Any landlord who retains personal property in violation of this chapter shall be liable to the tenant in a civil action for all the following:

(1) Actual damages not to exceed the value of the personal property, if the personal property is not surrendered by the later of either of the following: (A) within a reasonable time after the tenant's request for surrender of the personal property, or (B) if the landlord has demanded payment of reasonable costs associated with removal and storage and the tenant has complied with the requirements set forth in paragraphs (3) and (4) of subdivision (a), whichever is later. Three days is presumed to be a reasonable time in the absence of evidence to the contrary.

(2) An amount not to exceed two hundred fifty dollars ($250) for each bad faith violation of this section. In determining the amount of the award, the court shall consider proof of matters as justice may require.

(3) The court may award reasonable attorney's fees and cost to the prevailing party.

(f) The remedy provided by this chapter is not exclusive and shall not preclude either the landlord or the tenant from pursuing any other remedy provided by law.

SEC. 3. Section 1174 of the Code of Civil Procedure is amended to read:

1174. (a) If upon the trial, the verdict of the jury, or, if the case be tried without a jury, the findings of the court be in favor of the plaintiff and against the defendant, judgment shall be entered for the possession of the premises; and if the proceedings be for an unlawful detainer after neglect, or failure to perform the conditions or covenants of the lease or agreement under which the property is held, or after default in the payment of rent, the judgment shall also declare the forfeiture of such lease or agreement if the notice required by Section 1161 states the election of the landlord to declare the forfeiture thereof, but if such notice does not so state such election, the lease or agreement shall not be forfeited.

Except as provided in Section 1166a, in any action for unlawful detainer brought by a petroleum distributor against a gasoline dealer, possession shall not be restored to the petroleum distributor unless the court in the unlawful detainer action determines that the petroleum distributor had good cause under Section 20999.1 of the Business and Professions Code to terminate, cancel, or refuse to renew the franchise of the gasoline dealer.

In any action for unlawful detainer brought by a petroleum distributor against the gasoline dealer, the court may, at the time of request of either party, require the tenant to make rental payments into the court, for the lessor, at the contract rate, pending the resolution of the action.

(b) The jury or the court, if the proceedings be tried without a jury, shall also assess the damages occasioned to the plaintiff by any forcible entry, or by any forcible or unlawful detainer, alleged in the complaint and proved on the trial, and find the amount of any rent due, if the alleged unlawful detainer be after default in the payment of rent. If the defendant is found guilty of forcible entry, or forcible or unlawful detainer, and malice is shown, the plaintiff may be awarded either damages and rent found due or punitive damages in an amount which does not exceed three times the amount of damages and rent found due. The trier of fact shall determine whether damages and rent found due or punitive damages shall be awarded, and judgment shall be entered accordingly.

(c) When the proceeding is for an unlawful detainer after default in the payment of rent, and the lease or agreement under which the rent is payable has not by its terms expired, and the notice required by Section 1161 has not stated the election of the landlord to declare the forfeiture thereof, the court may, and, if the lease or agreement is in writing, is for a term of more than one year, and does not contain a forfeiture clause, shall order that a writ shall not be issued to enforce the judgment until the expiration of five days after the entry of the judgment, within which time the tenant, or any subtenant, or any mortgagee of the term, or any other party interested in its continuance, may pay into the court, for the landlord, the amount found due as rent, with interest thereon, and the amount of the damages found by the jury or the court for the unlawful detainer, and the costs of the proceedings, and thereupon the judgment shall be satisfied and the tenant be restored to the tenant's estate. If payment as provided in this subdivision is not made within five days, the judgment may be enforced for its full amount and for the possession of the premises. In all other cases the judgment may be enforced immediately.

(d) Subject to subdivision (c), the judgment for possession of the premises may be enforced as provided in Division 3 (commencing with Section 712.010) of Title 9 of Part 2.

(e) Personal property remaining on the premises which the landlord reasonably believes to have been lost shall be disposed of pursuant to Article 1 (commencing with Section 2080) of Chapter 4 of Title 6 of Part 4 of Division 3 of the Civil Code. The landlord is not liable to the owner of any property which is disposed of in this manner. If the appropriate police or sheriff's department refuses to accept such property, it shall be deemed not to have been lost for the purposes of this subdivision.

(f) The landlord shall give notice pursuant to Section 1983 of the Civil Code to any person (other than the tenant) reasonably believed by the landlord to be the owner of personal property remaining on the premises unless the procedure for surrender of property under Section 1965 of the Civil Code has been initiated or completed.

(g) The landlord shall store the personal property in a place of

safekeeping until it is either released pursuant to subdivision (h) or disposed of pursuant to subdivision (i).

(h) The landlord shall release the personal property pursuant to Section 1965 of the Civil Code or shall release it to the tenant or, at the landlord's option, to a person reasonably believed by the landlord to be its owner if the tenant or other person pays the costs of storage as provided in Section 1990 of the Civil Code and claims the property not later than the date specified in the writ of possession before which the tenant must make his or her claim or the date specified in the notice before which a person other than the tenant must make his or her claim.

(i) Personal property not released pursuant to subdivision (h) shall be disposed of pursuant to Section 1988 of the Civil Code.

(j) Where the landlord releases personal property to the tenant pursuant to subdivision (h), the landlord is not liable with respect to that property to any person.

(k) Where the landlord releases personal property pursuant to subdivision (h) to a person (other than the tenant) reasonably believed by the landlord to be its owner, the landlord is not liable with respect to that property to:

(1) The tenant or to any person to whom notice was given pursuant to subdivision (f); or

(2) Any other person, unless such person proves that, prior to releasing the property, the landlord believed or reasonably should have believed that such person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of such person.

(*l*) Where personal property is disposed of pursuant to Section 1988 of the Civil Code, the landlord is not liable with respect to that property to:

(1) The tenant or to any person to whom notice was given pursuant to subdivision (f); or

(2) Any other person, unless such person proves that, prior to disposing of the property pursuant to Section 1988 of the Civil Code, the landlord believed or reasonably should have believed that such person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of such person.

(m) For the purposes of subdivisions (e), (f), (h), (k), and (*l*), the terms "owner," "premises," and "reasonable belief" have the same meaning as provided in Section 1980 of the Civil Code.

CHAPTER 798

An act to amend Section 1063.5 of, and to add Section 1063.145 to, the Insurance Code, relating to insurance.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 1063.5 of the Insurance Code is amended to read:

1063.5. Each time an insurer becomes insolvent then, to the extent necessary to secure funds for the association for payment of covered claims of that insolvent insurer and also for payment of reasonable costs of adjusting the claims, the association shall collect premium payments from its member insurers sufficient to discharge its obligations. The association shall allocate its claim payments and costs, incurred or estimated to be incurred, to one or more of the following categories: (a) workers' compensation claims; (b) automobile claims, which shall include: automobile material damage, automobile liability (both personal injury and death and property damage), medical payments and uninsured motorist claims; and (c) claims other than workers' compensation and automobile, as above defined. Separate premium payments shall be required for each category. The premium payments for each category shall be used to pay the claims and costs allocated to that category. The rate of premium charged shall be a uniform percentage of net direct written premium in the preceding calendar year applicable to that category. The rate of premium charges to each member in the appropriate categories shall initially be based on the written premium of each insurer as shown in the latest year's annual financial statement on file with the commissioner. The initial premium shall be adjusted by applying the same rate of premium charge as initially used to each insurer's written premium as shown on the annual statement for the second year following the year in which the initial premium charge is made. The difference between the initial premium charge and the adjusted premium charge shall be charged or credited to each member insurer by the association as soon as practical after the filing of the annual statements of the member insurers with the commissioner for the year on which the adjusted premium is based. "Net direct written premiums" shall mean the amount of gross premiums, less return premiums and policyholder's dividends paid or allowed, received in that calendar year upon business done in this state, other than premiums received for reinsurance. In cases of a dispute as to the amount of any such net direct written premium between the association and one of its members the written decision of the commissioner shall be final. The premium charged to any member insurer for any of the three categories or a category

established by the association shall not be more than 1 percent of the net direct premium written in that category in this state by that member insurer. However, in no event shall the total premium charged a member insurer in one calendar year exceed 1 percent of the net direct premium written by the member insurer in one calendar year. The association may exempt or defer, in whole or in part, the assessment of any member insurer, if the assessment would cause the member insurer's financial statement to reflect an amount of capital or surplus less than the minimum amounts required for a certificate of authority by any jurisdiction in which the member insurer is authorized to transact insurance. However, during the period of deferment, no dividends shall be paid to shareholders or policyholders by the company whose assessment was deferred. Deferred assessments shall be paid when the payment will not reduce capital or surplus below required minimums. These payments shall be credited against future assessments to those companies receiving larger assessments by virtue of the deferment. The premium charges shall be recognized in the ratemaking procedures for insurance rates in the same manner that losses are recognized or as otherwise provided in this article. After all covered claims of the insolvent insurer and expenses of administration have been paid, any unused premiums and any reimbursements or claims dividends from the liquidator remaining in any category shall be retained by the association and applied to reduce future premium charges in the appropriate category. However, an insurer which ceases to be a member of the association shall have no right to a refund of any premium previously remitted to the association. The commissioner may suspend or revoke the certificate of authority to transact business in this state of a member insurer which fails to pay a premium when due and after demand has been made.

Interest at a rate equal to the current federal reserve discount rate plus 2½ percent per annum shall be added to the premium of any member insurer which fails to submit the premium requested by the association within 30 days after such mailing request. However, in no event shall the interest rate exceed the legal maximum.

SEC. 2. Section 1063.145 is added to the Insurance Code, to read:

1063.145. The statement of the amount of surcharge required to be provided under subdivision (b) of Section 1063.14 shall include a description of, and purpose for, the California Insurance Guarantee Association, as follows:

Companies writing property and casualty insurance business in California are required to participate in the California Insurance Guarantee Association. If a company becomes insolvent the California Insurance Guarantee Association settles unpaid claims and assesses each insurance company for its fair share.

California law requires all companies to surcharge policies to recover these assessments. If your policy is surcharged, "CA Surcharge" with an amount will be displayed on your premium notice."

CHAPTER 799

An act to amend Sections 18203.2, 18205, 18210, 18251, 18252, 18253, 18254, 18300, 18300.1, 18300.5, 18301, 18303, 18400, 18401, 18402, 18403, 18404, 18406, 18500, 18505, 18506, 18507, 18510, 18550, 18551, 18554, 18601, 18602, 18603, 18604, 18610, 18612, 18620, 18630, 18640, 18670, 18690, and 18691 of, to amend the heading of Article 2 (commencing with Section 18610) of Chapter 5 of Part 2.1 of Division 13 of, and to add Sections 18214.1, 18216.1, and 18250.5 to, the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 18203.2 of the Health and Safety Code is amended to read:

18203.2. "Camping party" means a person or group of not more than 10 persons occupying a campsite for not more than 30 days annually.

SEC. 2. Section 18205 of the Health and Safety Code is amended to read:

18205. "Conditional permit" means a construction, reconstruction, or operation permit issued by the enforcement agency which may prescribe conditions on the use or occupancy of a mobilehome park or special occupancy park, subject to the provisions of this part.

SEC. 3. Section 18210 of the Health and Safety Code is amended to read:

18210. "Lot" means any area or tract of land or portion of a mobilehome park or special occupancy park, designated or used for the occupancy of one manufactured home, mobilehome, recreational vehicle, tent, camp car, or camping party.

SEC. 4. Section 18214.1 is added to the Health and Safety Code, to read:

18214.1. "Park" means any mobilehome park or special occupancy park.

SEC. 5. Section 18216.1 is added to the Health and Safety Code, to read:

18216.1. "Special occupancy park" means a recreational vehicle park, temporary recreational vehicle park, incidental camping area, or tent camp.

SEC. 6. Section 18250.5 is added to the Health and Safety Code, to read:

18250.5. The Legislature finds and declares that increasing numbers of Californians own and use recreational vehicles for recreation, vacations, and temporary housing. Because these vehicles are highly mobile and use various facilities throughout the state,

there is a need for consistent and uniform statewide regulations for special occupancy parks to assure their health, safety, and general welfare, and a decent living environment.

SEC. 7. Section 18251 of the Health and Safety Code is amended to read:

18251. The Legislature finds and declares that the standards and requirements established for construction, maintenance, occupancy, use, and design of parks should guarantee park residents maximum protection of their investment and a decent living environment. At the same time, the standards and requirements should be flexible enough to accommodate new technologies and to allow designs that reduce costs and enhance the living environment of park residents.

SEC. 8. Section 18252 of the Health and Safety Code is amended to read:

18252. The Legislature finds and declares that inclusion of specific standards within a statute often precludes the rapid and flexible action needed to correct substandard conditions, and that it is desirable to delete outdated requirements, and to add new and useful requirements designed to protect the health, safety, and general welfare of park residents or to encourage use of new technologies in the development of parks.

SEC. 9. Section 18253 of the Health and Safety Code is amended to read:

18253. The Legislature finds and declares that the specific requirements relating to construction, maintenance, occupancy, use, and design of parks are best developed by the department in accordance with the criteria established by this part. Placing this responsibility with the department will allow for modifications of specific requirements in a rapid fashion and in a manner responsive to the needs of park residents and owners.

SEC. 10. Section 18254 of the Health and Safety Code is amended to read:

18254. (a) It is the purpose of this part to accomplish both of the following:

(1) Assure protection of the health, safety, and general welfare of all park residents.

(2) Allow modifications in regulations adopted pursuant to this part in a manner consistent with the criteria established in this part.

(b) The regulations adopted by the department pursuant to the authority granted in this part shall provide equivalent or greater protection to residents of parks than the statutes and regulations in effect prior to January 1, 1978.

SEC. 11. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) This part applies to all parts of the state and supersedes any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific this part and when

adopted the regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part and the regulations adopted pursuant to this part following approval by the department for the assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly this part and the regulations adopted pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of this part or the regulations adopted pursuant to this part by a city, county, or city and county, the department shall enforce this part and the regulations adopted pursuant to this part in the city, county, or city and county, after the department has given written notice to the governing body of the city, county, or city and county, setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of the notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal the decision to the director of the department.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of the notice, shall assume responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce this part and the regulations adopted pursuant to this part, as they relate to manufactured homes, mobilehomes, or recreational vehicles and to accessory buildings or structures located both in or outside of parks.

(g) This part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers, from doing any of the following:

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for manufactured homes, mobilehomes, mobilehome parks, and special occupancy parks within the city, county, or city and county, or

establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within the city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks or special occupancy parks.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when the facilities are located outside a park for which a permit is required by this part or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home, mobilehome, or recreational vehicle outside a park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes, mobilehomes, and recreational vehicles, which permit may be refused or revoked if the use violates this part or Part 2 (commencing with Section 18000), any regulations adopted pursuant thereto, or any local ordinance applicable to that use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms.

(2) A city, including a charter city, county, or city and county, shall not require a new park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or improvements may be required only to the extent that the facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

SEC. 12. Section 18300.1 of the Health and Safety Code is amended to read:

18300.1. Any person may file an application with the governing body of any city, city and county, or county for a conditional use

permit for a manufactured home, mobilehome, or park. The governing body, or the planning commission if designated by the governing body, shall hold a public hearing on any such application. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least two weeks before the hearing and shall be published at least once in a newspaper of general circulation, published and circulated in the city, city and county, or county, as the case may be. When any hearing is held on an application for a conditional use permit for a manufactured home, mobilehome, or park, a staff report with recommendations and the basis for such recommendations shall be included in the record of the hearing. The decision of the governing body shall be final and the reasons for the decision shall be included in the record.

SEC. 13. Section 18300.5 of the Health and Safety Code is amended to read:

18300.5. (a) In any city, county, or city and county, which has imposed a time limitation for occupancy of spaces in special occupancy parks, any special occupancy park owner may apply for an exemption to that limitation. The exemption shall be granted unless the city, county, or city and county, makes a substantial finding that based on, but not limited to, the lack of needed overnight or tourist spaces in those special occupancy parks in the city, county, or city and county, that the exemption of the applicant's special occupancy park from the time limitation would cause specific adverse impacts which cannot be mitigated or avoided by providing partial exemptions as set forth in subdivision (b) or by imposing conditions pursuant to subdivision (c).

(b) The requirements of subdivision (a) may be satisfied by partial exemption if either of the following apply:

(1) A number of spaces in a special occupancy park are set aside for short-term occupancy, and the remaining spaces are exempted by the city, county, or city and county, from the occupancy limitation.

(2) A city, county, or city and county, finds that by increasing the maximum length of stay to a specified additional period of time for the applicant, the problems raised by the applicant for an exemption are satisfied.

(c) As an alternative to granting a partial exemption pursuant to subdivision (a), in approving a request for an exemption from special occupancy park time limitations, a city, county, or city and county may:

(1) Impose conditions to assure there will be no adverse impact on local school districts due to the additional enrollment of residents of a special occupancy park.

(2) Assure that a special occupancy park is in compliance with the requirements of Subchapter 2 (commencing with Section 2000) of Chapter 2 of Part 1 of Title 25 of the California Administrative Code.

(d) If an exemption to a time limitation for occupancy of spaces in a special occupancy park is applied for pursuant to subdivision (a) and the special occupancy park for which the exemption is requested is located within the coastal zone, as defined in Section 30103 of the Public Resources Code, the exemption shall be granted, only, if in addition to meeting the requirements set forth in subdivision (a) the city, county, or city and county, finds that granting the exemption is consistent with its certified local coastal program. If granting the exemption would be inconsistent with an approved or certified local coastal program, the applicant for the exemption may petition the appropriate city, county, or city and county, to seek an amendment to its certified local coastal program. If, after consultation with the California Coastal Commission, it is determined that an amendment to the certified local coastal program is required in order to grant the exemption, the city, county, or city and county, may request an amendment to the certified local program within 90 days of the applicant's filing of the petition. This request may be made without regard to the limitation on the number of the amendments that can be requested during any year, pursuant to Section 30514 of the Public Resources Code. The California Coastal Commission shall certify the amendment to the local coastal program unless it finds that the certification would not be consistent with Chapter 3 (commencing with Section 30200) of Division 20 of the Public Resources Code.

SEC. 14. Section 18301 of the Health and Safety Code is amended to read:

18301. (a) The provisions of this part applicable to mobilehome parks shall apply equally to special occupancy parks, except where specifically exempted by regulations adopted by the department pursuant to this part.

(b) The department shall adopt regulations for special occupancy parks which shall take into consideration such special conditions as location, physical environment, density of usage, type of operation, type of vehicles to be accommodated, and duration of occupancy. The department may vary the requirements for special occupancy parks according to conditions. These regulations shall establish requirements which are determined by the department to be reasonable and necessary for the protection of life and property.

SEC. 15. Section 18303 of the Health and Safety Code is amended to read:

18303. This part does not apply to any park or camping area owned, operated, and maintained by any of the following:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

(d) Any city, county, or city and county.

SEC. 16. Section 18400 of the Health and Safety Code is amended to read:

18400. (a) The department shall enforce this part and the rules and regulations adopted pursuant to this part, except as provided in

Section 18300.

(b) The officers or agents of the enforcement agency may do either of the following:

(1) Enter public or private property to determine whether there exists any park to which this part applies.

(2) Enter and inspect all parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of this part and the regulations adopted pursuant to this part.

SEC. 17. Section 18401 of the Health and Safety Code is amended to read:

18401. The enforcement agency shall notify the owner or occupant of any manufactured home, mobilehome, recreational vehicle, or other structure of any violations of this part relating to parks, or of any other rules or regulations adopted pursuant to this part applicable to a manufactured home, mobilehome, recreational vehicle, accessory structure, or other structure or appurtenance owned, occupied, or under such person's control. The notification shall include a statement that any willful violation is a misdemeanor under Section 18700.

SEC. 18. Section 18402 of the Health and Safety Code is amended to read:

18402. The owner or operator of a park shall abate any nuisance in the park within five days, or within such longer period of time as may be allowed by the enforcement agency, after he has been given written notice to remove the nuisance. If he fails to do so within that time, the district attorney of the county in which the park, or the greater portion of the park, is situated shall bring a civil action to abate the nuisance in the superior court of the county in the name of the people of the State of California.

SEC. 19. Section 18403 of the Health and Safety Code is amended to read:

18403. In any action or proceeding to abate a nuisance in a park, proof of any one of the following facts is sufficient for a judgment or order for the abatement of the nuisance, violation, or operation of the park:

(a) A previous conviction of the owner or operator of a violation of this part or a regulation adopted pursuant to this part which constitutes a nuisance or failure on the part of the owner or operator to correct the violation after the conviction.

(b) The violation is the basis for the proceeding.

SEC. 20. Section 18404 of the Health and Safety Code is amended to read:

18404. (a) If any park or portion thereof governed by this part is constructed, altered, converted, used, occupied, or maintained in violation of this part, the regulations adopted pursuant to this part, or any order or notice issued by the enforcement agency which allows a reasonable time to correct the violation, the enforcement

agency may institute any appropriate action or proceeding to prevent, restrain, correct, or abate the violation.

(b) The superior court may make any order for which application is made pursuant to this part.

SEC. 21. Section 18406 of the Health and Safety Code is amended to read:

18406. No enforcement agency shall approve any park fronting upon any coastline, shoreline, river, or waterway or upon any lake or reservoir owned in whole or part by any public agency, including the state, unless the city, county, or city and county having jurisdiction over the property has determined that reasonable public access by fee or easement from public highways exists to the coastline, shoreline, river, waterway, lake or reservoir.

Any public access route or routes required to be provided by the owner shall be expressly designated on a map filed with the county recorder of the county in which the park lies, and the map shall specify the name of the owner of, and particularly describe the property involved, and designate the governmental entity to which the route or routes are dedicated. A governmental entity shall accept the dedication within three years after the recordation or the dedication shall be deemed abandoned.

Any public access required pursuant to this section need not be provided through or across the park if the city, county, or city and county having jurisdiction has made a finding that reasonable public access is otherwise available within a reasonable distance from the park. Any such findings shall be set forth on the recorded map required by this section.

Nothing in this section shall be construed as requiring a park owner to improve any access route or routes which are primarily for the benefit of nonresidents of the park.

SEC. 22. Section 18500 of the Health and Safety Code is amended to read:

18500. It is unlawful for any person to do any of the following unless he or she has a valid permit issued by the enforcement agency:

(a) Construct a park.

(b) Construct additional buildings or lots, alter buildings, lots, or other installations, in an existing park.

(c) Operate, occupy, rent, lease, sublease, let out, or hire out for occupancy any lot in a park that has been constructed, reconstructed, or altered without having obtained a permit as required herein.

(d) Operate a park or any portion thereof.

This section shall not apply to any labor camp having a valid annual permit to operate.

SEC. 23. Section 18505 of the Health and Safety Code is amended to read:

18505. A permit to operate shall be issued by the department following notification by the local enforcement agency of completion of construction of a new park or additional lots to an existing park. The local enforcement agency shall, by approving the application for

a permit to operate, authorize occupancy of the newly constructed facilities. Upon approval by the local enforcement agency, one copy of the permit application shall be provided to the applicant and one copy shall be forwarded to the department.

SEC. 24. Section 18506 of the Health and Safety Code is amended to read:

18506. Permits to operate shall be issued by the enforcement agency. A copy of each permit to operate shall be forwarded to the department. No permit to operate shall be issued for a park when the previous operating permit has been suspended by the enforcement agency until the violations which were the basis for the suspension have been corrected. No park which was in existence on September 15, 1961, shall be denied a permit to operate if the park complied with the law which this part supersedes. Permits to operate shall be issued for a 12-month period and invoiced according to a method and schedule established by the department. Permit applications returned to the enforcement agency 30 days after the due date shall be subject to a penalty fee equal to 10 percent of the established fee. The penalty fee for submitting a permit application 60 or more days after the due date shall equal 100 percent of the established permit fee. These penalties and the established permit fees shall be paid prior to issuance of the permit, and the fee and 100 percent penalty shall be due upon demand of the enforcement agency for any park which has not applied for a permit.

SEC. 25. Section 18507 of the Health and Safety Code is amended to read:

18507. (a) The enforcement agency shall be notified by the new owner or operator of any park of any change in the name or ownership or possession thereof. The notice shall be in written form and shall be furnished within 30 days from and after any such change in name or transfer of ownership or possession. The notice shall be accompanied by the appropriate fees to the enforcement agency. Following receipt of the notice and fee, the enforcement agency shall record the change of ownership or possession and shall issue an amended permit to operate, except as provided in Section 18506.

(b) In case of any change in name or transfer of ownership or possesion prior to completion of construction, no additional fee for a construction permit is required, provided the new owner completes construction in accordance with prior enforcement agency approved plans and specifications. However, if there is any substantial deviation from the approved plans and specifications, a new application for a permit to construct shall be submitted, accompanied by revised plans and specifications and the appropriate fees.

SEC. 26. Section 18510 of the Health and Safety Code is amended to read:

18510. If any person who holds a permit to operate violates the permit or this part, the permit may be suspended by the enforcement agency. This section does not, however, authorize the

suspension of a permit of any park existing on September 15, 1961, for any violation of this part which was not a violation of the law which this part supersedes.

SEC. 27. Section 18550 of the Health and Safety Code is amended to read:

18550. It is unlawful for any person to use or cause, or permit to be used for occupancy, any of the following manufactured homes, mobilehomes, or recreational vehicles, wherever the manufactured homes, mobilehomes, or recreational vehicles are located:

(a) Any manufactured home, mobilehome, or recreational vehicle supplied with fuel, gas, water, electricity, or sewage connections, unless the connections and installations conform to regulations of the department.

(b) Any manufactured home, mobilehome, or recreational vehicle which is permanently attached with underpinning or foundation to the ground, except for manufactured homes or mobilehomes which bear a department insignia or federal label, and which are installed on a foundation system, pursuant to Section 18551 or an earthquake resistant bracing system pursuant to Section 18613.5.

(c) Any manufactured home or mobilehome which does not conform to the registration requirements of the department.

(d) Any manufactured home or mobilehome in an unsafe or unsanitary condition.

(e) Any manufactured home, mobilehome, or recreational vehicle which is structurally unsound and does not protect its occupants against the elements.

SEC. 28. Section 18551 of the Health and Safety Code is amended to read:

18551. (a) The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundation systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(b) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor shall obtain a building permit from the appropriate enforcement agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the enforcement agency that the manufactured home, mobilehome, or, commercial coach owner owns, holds title to, or is purchasing the real property where the

mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owner, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more, or if less than 35 years, for a term mutually agreed upon by the lessor and lessee, and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the enforcement agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system.

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome, or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance or regulation of the appropriate enforcement agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be transmitted to the department at the time the certificate of occupancy is issued with a copy of the building permit and any other information concerning the manufactured home, mobilehome, or commercial coach which the department may prescribe on forms provided by the department.

(c) (1) On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate enforcement agency, the enforcement agency shall record with the county recorder of the county in which the real property is situated, on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to that real property by

installation on a foundation system pursuant to this section.

(2) When recorded, the document referred to in paragraph (1) shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

(3) Fees received by the department pursuant to subdivision (b) shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016.5. To the extent these fees are utilized for enforcement of consumer protections, subdivision (b) of Section 18016.5 does not apply.

(d) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (b) is recorded. Cancellation shall be effective as of that date and the department shall enter the cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(e) Once installed on a foundation system in compliance with subdivisions (b), (c), and (d), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

(f) For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(g) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or

commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration, as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(h) Notwithstanding any other provision of law, any manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to, real property without compliance with subdivisions (b), (c), and (d), shall not be deemed a fixture or improvement to the real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(i) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(j) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

(k) No local agency shall require that any manufactured home or mobilehome located in a mobilehome park be placed on a foundation system, so as to be permanently affixed to real property.

(*l*) No local agency shall require, as a condition for the approval of the conversion of a rental mobilehome park to a resident-owned park, including, but not limited to, a subdivision, cooperative, or condominium for mobilehomes, that any manufactured home or mobilehome located there be placed on a foundation system, so as to be permanently affixed to real property. This subdivision shall only apply to the conversion of a rental mobilehome park which has been operated as a rental mobilehome park for a minimum period of five years.

SEC. 29. Section 18554 of the Health and Safety Code is amended to read:

18554. It is unlawful to permit any waste water or material from any plumbing fixtures in a manufactured home, mobilehome, or recreational vehicle to be deposited upon the surface of the ground. Except as provided in Section 18930, the department may adopt any rules and regulations which it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section.

SEC. 30. Section 18601 of the Health and Safety Code is amended to read:

18601. The department shall adopt regulations to ensure adequate animal control within parks.

SEC. 31. Section 18602 of the Health and Safety Code is amended to read:

18602. In every park there shall be installed and kept burning from sunset to sunrise sufficient artificial light to adequately illuminate every building containing toilets and showers, and roadways and walkways within the park.

SEC. 32. Section 18603 of the Health and Safety Code is amended to read:

18603. There shall be a person available who shall be responsible for the operation and maintenance of the park. In every park with 50 or more units, the person or his or her designee shall reside in the park and shall have knowledge of emergency procedures relative to utility systems and common facilities under the ownership and control of the owner of the park.

SEC. 33. Section 18604 of the Health and Safety Code is amended to read:

18604. No manufactured home, mobilehome, or recreational vehicle within a park shall be rented or leased unless it bears a department insignia of approval issued pursuant to Section 18026, or a federal label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.).

SEC. 34. The heading of Article 2 (commencing with Section 18610) of Chapter 5 of Part 2.1 of Division 13 of the Health and Safety Code is amended to read:

Article 2. Mobilehome and Special Occupancy Park Lots

SEC. 35. Section 18610 of the Health and Safety Code is amended to read:

18610. Except as provided in Section 18930, the department shall adopt regulations to govern the construction, use, occupancy, and maintenance of parks and lots within the parks. The regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of parks. The regulations adopted by the department shall provide equivalent or greater protection to the residents of parks than the statutes and regulations in effect on December 31, 1977.

SEC. 36. Section 18612 of the Health and Safety Code is amended to read:

18612. Except as provided in Section 18930, the department shall adopt regulations to govern lot access and driveways within parks. The regulations adopted by the department shall establish standards or requirements which protect the health, safety, and general welfare of the residents of parks and shall require proper maintenance of lot access and driveways. The regulations adopted by

the department shall provide equivalent or greater protection to the residents of parks than the statutes and regulations in effect on December 31, 1977.

SEC. 37. Section 18620 of the Health and Safety Code is amended to read:

18620. The department shall promulgate the rules and regulations regarding the construction of buildings in parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to the construction of all permanent buildings in a park, except in a park in a city, county, or city and county which has adopted and is enforcing a building code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 38. Section 18630 of the Health and Safety Code is amended to read:

18630. The department shall adopt the rules and regulations regarding plumbing in parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all plumbing within permanent buildings, except a park in a city, county, or city and county which has adopted and is enforcing a plumbing code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 39. Section 18640 of the Health and Safety Code is amended to read:

18640. The department shall adopt regulations for toilets, shower, and laundry facilities in parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of

parks, and shall require proper maintenance of those facilities. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall provide equivalent or greater protection to the residents of parks than the statutes and regulations in effect on December 31, 1977.

SEC. 40. Section 18670 of the Health and Safety Code is amended to read:

18670. The department shall adopt the rules and regulations regarding electrical wiring, fixtures, and equipment installed in parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all electrical wiring, fixtures, and equipment installed within permanent buildings, except within a park in a city, county, or city and county which has adopted and is enforcing an electrical code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 41. Section 18690 of the Health and Safety Code is amended to read:

18690. The department shall adopt the rules and regulations regarding fuel gas equipment and installations in parks which the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all fuel gas equipment and installations within permanent buildings, except within a park in a city, county, or city and county which has adopted and is enforcing a gas code imposing restrictions equal to or greater than the restrictions imposed by the building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 42. Section 18691 of the Health and Safety Code is amended to read:

18691. The department shall adopt rules and regulations which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in parks. The department shall adopt and submit building

standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section within permanent buildings.

The regulations adopted by the department shall be applicable in all parks, except in a park within a city, county, or city and county which has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other state regulations adopted by the department and which city, county, or city and county is the enforcement agency.

Notwithstanding the provisions of this section, the rules and regulations adopted by the department relating to the installation of water supply and fire hydrant systems shall not apply within parks constructed, or approved for construction, prior to January 1, 1966.

SEC. 43. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 800

An act to amend Section 2960 of, and to add Sections 2930.5 and 2987.3 to, the Business and Professions Code, relating to psychologists, and making an appropriation therefor.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 2930.5 is added to the Business and Professions Code, to read:

2930.5. (a) Any psychologist, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of subdivision (q) of Section 2960 may practice under that name if the proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the committee under this section.

(b) The committee shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the committee finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses and no charges of unprofessional conduct are pending against any such licensed

person.

(2) The place, or portion thereof, in which the applicant's or applicants' practice, is owned or leased by the applicant or applicants.

(3) The professional practice of the applicant or applicants is wholly owned and entirely controlled by the applicant or applicants.

(4) The name under which the applicant or applicants propose to practice contains one of the following designations: "psychology group" or "psychology clinic."

(c) Fictitious-name permits issued by the committee shall be subject to Article 7 (commencing with Section 2980) pertaining to renewal of licenses.

(d) The committee may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2965.

(e) The committee may also proceed to revoke the fictitious-name permit of a licensee whose license has been revoked, but no proceeding may be commenced unless and until the charges of unprofessional conduct against the licensee have resulted in revocation of the license.

(f) The committee may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue those permits.

SEC. 2. Section 2960 of the Business and Professions Code is amended to read:

2960. The committee may order the denial of an application for licensure, or issue a license with terms and conditions, or, as to any licensee, order the suspension for a period not exceeding one year, or the revocation of, or the imposition of probationary conditions upon, a licensee for any of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that such use impairs his or her ability to perform the work of a psychologist with safety to the public.

(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.

(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.

(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.

(f) Accepting commissions or rebates or other forms of

remuneration for referring persons to other professionals.

(g) Violating Section 17500.

(h) Willful, unauthorized communication of information received in professional confidence.

(i) Violating any rule of professional conduct promulgated by the committee and set forth in regulations duly adopted under this chapter.

(j) Being grossly negligent in the practice of his or her profession.

(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

(*l*) The aiding or abetting of any person to engage in the unlawful practice of psychology.

(m) The suspension, revocation or imposition of probationary conditions by another state of a license or certificate to practice psychology or as a psychological assistant issued by that state to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

(n) The commission of any dishonest, corrupt, or fraudulent act or any act of sexual abuse, or sexual relations with a patient, or sexual misconduct which is substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

(o) Functioning outside of his or her particular field or fields of competence as established by his or her education, training, and experience.

(p) Willful failure to submit, on behalf of an applicant for licensure, verification of supervised experience to the committee.

(q) Using any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjuction with a partnership or group, or as the name of a professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2920.5.

SEC. 3. Section 2987.3 is added to the Business and Professions Code, to read:

2987.3. The following fees apply to fictitious-name permits issued under Section 2930.5.

(a) The initial permit fee is an amount equal to the renewal fee in effect at the beginning of the current renewal cycle. If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee in effect at the beginning of the current renewal cycle.

(b) The biennial renewal fee shall be fixed by the committee at an amount not to exceed fifty dollars ($50). The amount of this fee shall not exceed the actual cost of issuing a fictitious-name permit.

(c) The deliquency fee is twenty dollars ($20).

CHAPTER 801

An act to add Section 8107 to the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 8107 is added to the Welfare and Institutions Code, to read:

8107. Any weapon unlawfully possessed pursuant to this chapter shall be subject to disposition pursuant to Sections 12028 and 12032 of the Penal Code.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 802

An act to add Section 31520.3 to the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 9, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 31520.3 is added to the Government Code, to read:

31520.3. Notwithstanding Section 31520.1, the board of retirement of a county of the 13th class or of the 16th class, as defined by Sections 28020, 28034, and 28037, as amended by Chapter 1204 of the Statutes of 1971, may, by majority vote, appoint, from a list of nominees submitted by an organization consisting solely of retired members, an alternate retired member to the office of the eighth member, who shall serve until the expiration of the current term of the current eighth member and thereafter the alternate retired member shall be elected by the retired members of the association in the same manner and at the same time as the eighth member is elected. The term of office of the alternate retired member shall run

concurrently with the term of office of the eighth member. The alternate retired member shall vote as a member of the board only in the event the eighth member is absent from a board meeting for any cause. If there is a vacancy with respect to the eighth member, the alternate retired member shall fill that vacancy until a successor qualifies. The alternate retired member shall be entitled to the same compensation as the eighth member only in the event the alternate retired member is present and acting for the eighth member during the entire meeting. In the event that this section is made applicable in any county, by the appointment of an alternate eighth member, the alternate safety member shall not sit and act for the eighth member.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 803

An act to amend Sections 44976, 67062, and 67140 of the Food and Agricultural Code, relating to avocados, and making an appropriation therefor.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 44976 of the Food and Agricultural Code is amended to read:

44976. The moneys which are received pursuant to this chapter shall be used only for the administration and enforcement of this chapter, including, but not limited to, payments to the county agricultural commissioners and to institutions of scientific research for improving the inspection and certification methods required by this chapter.

SEC. 2. Section 67062 of the Food and Agricultural Code is amended to read:

67062. The state is not liable for the acts of the commission or its contracts, except for state-directed supervision of the avocado inspection program, as specified in Chapter 9 (commencing with Section 44971) of Division 17, which is performed under an agreement that specifies that each of the parties shall be responsible

and liable for that party's decisions made pursuant to the agreement, and that each of the parties shall not be held liable for the decisions made pursuant to the agreement by the other party. Payment of all claims arising by reason of the administration of this chapter or acts of the commission shall be limited to the funds collected by the commission. No member of the commission or alternate member, or any employee or agent thereof, shall be personally liable on the contracts of the commission nor shall a commissioner, alternate member, or employee of the commission be responsible individually in any way to any producer or handler or any other person for error in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, or employee, except for his or her own individual acts of dishonesty or crime. No commissioner or alternate member shall be held responsible individually for any act or omission of any member of the commission. The liability of the commissioners shall be several and not joint, and no commissioner shall be liable for the default of any other commissioner.

SEC. 3. Section 67140 of the Food and Agricultural Code is amended to read:

67140. The commission may recommend to the director the adoption of avocado quality standards or any other activity authorized pursuant to the California Marketing Act of 1937 (Chapter 1 (commencing with Section 58601) of Part 2 of Division 21) that is in accordance with the procedures specified in that act, unless otherwise specified in this article.

CHAPTER 804

An act to amend Section 16005 of the Unemployment Insurance Code, and to add Section 4334.5 to the Welfare and Institutions Code, relating to seniors.

[Approved by Governor September 9, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 16005 of the Unemployment Insurance Code is amended to read:

16005. Programs which shall be considered for provision by eligible service delivery areas pursuant to the state's implementation of the federal Job Training Partnership Act of 1982 shall include, but not be limited to, the following:

(a) Programs which increase the involvement of the private sector in training older workers, through use of business and industry facilities, equipment, and trainers in preparing older individuals for employment.

(b) Programs which communicate among private sector

employers effective methods for training and hiring older workers, including materials suitable for use by small businesses.

(c) Utilization of ridesharing and other transportation alternatives to expand the range of employment opportunities available to older workers.

(d) New approaches to the use of alternate work schedules to expand private sector employment opportunities for older workers. These alternatives might include part-time work, flexible scheduling, or job sharing.

(e) Implementation of programs at the worksite or senior service site which foster sharing of skills, knowledge, and capabilities among seniors and youth.

(f) Projects which involve older workers and youth jointly in employment and training opportunities while also delivering necessary community, human, and personal services.

(g) Programs developing existing resources, such as aging network focal points, which have high involvement of senior citizens as workers, volunteers, and participants, and which foster either of the following:

(1) An increased ability on the part of these programs to train, employ, serve, and provide skills to older persons.

(2) An increase in contact and cooperation between these programs and the private sector.

(h) Programs that train older workers to meet the growing demand for respite care by families caring for frail elderly or disabled adults in the home. "Respite care" for purposes of this subdivision, means intermittent or regularly scheduled substitute care for adults with chronic physical or mental limitations with the primary purpose of relieving the caregivers and helping to support them in their caregiving responsibilities.

(i) On-the-job training vouchers which offset the added costs of hiring and training older workers.

(j) Additional innovative approaches which encourage greater private sector participation in providing employment and training opportunities for older workers and which promote more stable employment for these workers.

(k) Programs fostering coordination with other resources, public and private, enhancing employment and training opportunities for older Californians.

SEC. 2. Section 4334.5 is added to the Welfare and Institutions Code, to read:

4334.5. The Statewide Resources Consultant, pursuant to subdivision (c) of Section 4334, shall do the following:

(a) Develop respite care training materials on or before June 30, 1989, with consultation by other appropriate organizations including the California Association of Homes for the Aging, and under the direction of the director, for distribution to all resource centers established under this chapter.

(b) On or before August 1, 1989, provide the respite care training

materials described in subdivision (a) to other appropriate state entities, including the Department of Aging, the State Department of Health Services, and the State Job Training Coordinating Council, for distribution to their respective services and programs.

(c) Pursuant to the requirements of Section 4336, report on the utilization of the respite care training materials, developed pursuant to subdivision (a), by all the resource centers for the period ending December 31, 1990, only, and make recommendations for the future use of these materials.

CHAPTER 805

An act to amend, repeal, and add Section 45 of the Code of Civil Procedure, relating to child custody.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 45 of the Code of Civil Procedure is amended to read:

45. (a) An appeal from a judgment freeing a minor who is a dependent child of the juvenile court from parental custody and control shall have precedence over all cases in the court to which an appeal in the matter is taken. In order to make placement of the child permanent and stable and to minimize the anxiety to all parties, the appellate court shall grant an extension of time to a court reporter or to counsel only upon an exceptional showing of good cause.

(b) The Judicial Council shall implement a four-year pilot project in the trial and appellate courts of Orange County to assure that any appeal that is subject to subdivision (a) that is filed on or after January 1, 1989, from a judgment of the Orange County Superior Court is finally determined within 250 days of the filing of the notice of appeal.

(c) This section shall remain operative until January 1, 1993, and as of that date is repealed. However, the Judicial Council shall report to the Legislature on the effectiveness of the pilot project, and that report shall be made no later than April 1, 1993.

SEC. 2. Section 45 is added to the Code of Civil Procedure, to read:

45. An appeal from a judgment freeing a minor who is a dependent child of the juvenile court from parental custody and control shall have precedence over all cases in the court to which an appeal in the matter is taken. In order to enable the child to be available for adoption as soon as possible and to minimize the anxiety to all parties, the appellate court shall grant an extension of time to

a court reporter or to counsel only upon an exceptional showing of good cause.

SEC. 3. Section 2 of this act shall become operative on January 1, 1993.

CHAPTER 806

An act to amend Sections 11475.1 and 11476 of, and to add Section 14008.6 to, the Welfare and Institutions Code, relating to public assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 11475.1 of the Welfare and Institutions Code is amended to read:

11475.1. (a) Each county shall maintain a single organizational unit located in the office of the district attorney which shall have the responsibility for promptly and effectively enforcing child and spousal support obligations and determining paternity in the case of a child born out of wedlock. The district attorney shall take appropriate action, both civil and criminal, to enforce this obligation when the child is receiving public assistance, including Medi-Cal, and when requested to do so by the individual on whose behalf the enforcement efforts will be made when the child is not receiving public assistance, including Medi-Cal. To the extent required by federal law, actions brought by the district attorney to establish or enforce support obligations in all cases, other than paternity cases or those cases involving complex issues, shall be completed within the following time limits: (1) 90 percent of the actions shall be completed within three months from the date of service; (2) 98 percent of the actions shall be completed within six months from the date of service; and (3) 100 percent of the actions shall be completed within 12 months from the date of service. As used in this section, "service" means the service of process required by law for the particular proceeding. This responsibility applies to spousal support only where the spousal support obligation has been reduced to an order of a court of competent jurisdiction. In any action brought for modification or revocation of an order that is being enforced under Title IV-D of the Social Security Act, the effective date of the modification or revocation shall be as prescribed by federal law (42 U.S.C. Sec. 666(a)(9)), or any subsequent date. In any action brought or enforcement proceedings instituted by the district attorney pursuant to this section for payment of child or spousal support, an action to recover an arrearage in support payments may be

maintained by the district attorney at any time within the period otherwise specified for the enforcement of a support judgment, notwithstanding the fact that the child has attained the age of majority. The county shall undertake an outreach program to inform the public that this service is available to persons not receiving public assistance. There shall be prominently displayed in every public area of every office of the units established by this section a notice, in clear and simple language prescribed by the Director of Social Services, that child and spousal support enforcement services are provided to all individuals whether or not they are recipients of public social services.

In any action for child support brought by the district attorney in the performance of duties under this section, the district attorney may make a motion for an order effective during the pendency of that action, for the support, maintenance, and education of the child or children that are the subject of the action. This order shall be referred to as an order for temporary support. This order shall have the same force and effect as a like or similar order under the Family Law Act (Part 5 (commencing with Section 4000) of Division 4 of the Civil Code).

The district attorney shall file a motion for an order for temporary support within the following time limits:

(1) If the defendant is the mother, a presumed father under subdivision (a) of Section 7004 of the Civil Code, or any father where the child is at least six months old when the defendant files his answer, the time limit is 90 days after the defendant files an answer.

(2) In any other case where the defendant has filed an answer prior to the birth of the child or not more than six months after the birth of the child, then the time limit is nine months after the birth of the child.

If more than one child is the subject of the action, the limitation on reimbursement shall apply only as to those children whose parental relationship and age would bar recovery were a separate action brought for support of that child or those children.

If the district attorney fails to file a motion for an order for temporary support within time limits specified in this section, the district attorney shall be barred from obtaining a judgment of reimbursement for any support provided for that child during the period between the date the time limit expired and the motion was filed, or, if no such motion is filed, when a final judgment is entered.

Nothing in this section prohibits the district attorney from entering into cooperative arrangements with other county departments as necessary to carry out the responsibilities imposed by this section pursuant to plans of cooperation with the departments approved by the State Department of Social Services.

Nothing in this section shall otherwise limit the ability of the district attorney from securing and enforcing orders for support of a spouse or former spouse as authorized under any other provision of law.

As used in this subdivision, "complex issues" means issues arising in the following types of cases: (1) any case which could directly result in a person's incarceration; (2) any case involving the right to jury trial; and (3) any case so deemed by a commissioner, a referee, or a superior court judge.

In counties which operate an expedited process in accordance with Section 640.1 of the Code of Civil Procedure, commissioners and referees shall order a temporary support obligation under the expedited process in complex cases, as defined in this section, prior to referring those cases to the full judicial system.

(b) As used in this article, "enforcing obligations" includes, but is not limited to, (1) the use of all interception and notification systems operated by the State Department of Social Services for the purposes of aiding in the enforcement of support obligations and (2) the obtaining by the district attorney of an initial order for child support, by civil or criminal process, without regard to whether the child is receiving public assistance.

(c) As used in this section "out of wedlock" means that the biological parents of the child were not married to each other at the time of the child's conception.

(d) The district attorney is the public agency responsible for administering wage withholding for the purposes of Title IV-D of the Social Security Act. The district attorney shall seek a wage assignment in any case as soon as the obligor is in arrears in payment in a sum equal to the amount of support payable for one month pursuant to Section 4701 of the Civil Code.

SEC. 2. Section 11476 of the Welfare and Institutions Code is amended to read:

11476. It shall be the duty of the county department to refer all cases where a parent is absent from the home, or where the parents are unmarried and parentage has not been determined by a court of competent jurisdiction, to the district attorney immediately at the time the application for public assistance, including Medi-Cal benefits, or certificate of eligibility, is signed by the applicant or recipient. If an applicant is found to be ineligible, the applicant shall be notified in writing that the referral of the case to the district attorney may be terminated at the applicant's request. The county department shall cooperate with the district attorney and shall make available to him or her all pertinent information as provided in Section 11478.

Upon referral from the county department, the district attorney shall investigate the question of nonsupport or paternity and shall take all steps necessary to obtain child support for the needy child, enforce spousal support as part of the state plan under Section 11475.2, and determine paternity in the case of a child born out of wedlock. Upon the advice of the county department that a child is being considered for adoption, the district attorney shall delay the investigation and other actions with respect to the case until advised that the adoption is no longer under consideration. The granting of

public assistance or Medi-Cal benefits to an applicant shall not be delayed or contingent upon investigation by the district attorney.

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

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

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

SEC. 3. Section 14008.6 is added to the Welfare and Institutions Code, to read:

14008.6. As a condition of eligibility for medical services provided under this chapter or Chapter 8 (commencing with Section 14200), and to the extent required by federal law, each applicant or beneficiary shall:

(a) Assign to the state any rights to medical support and to payments for medical care from a third party that an individual may have in his of her own behalf or in behalf of any other family member for whom that individual has the legal authority to assign such rights, and is applying for or receiving medical services. Receipt of medical services under this chapter or Chapter 8 (commencing with Section 14200) shall operate as an assignment by operation of law. If those rights are assigned pursuant to this subdivision, the assignee may become an assignee of record by the district attorney or other public official filing with the court clerk an affidavit showing that an assignment has been made or that there has been an assignment by operation of law. This procedure does not limit any other means by which the assignee may become an assignee of record.

(b) Cooperate with the county welfare department and the district attorney in establishing the paternity of a child born out of wedlock with respect to whom medical services are requested or claimed, and for whom that individual can legally assign the rights described in subdivision (a), and in obtaining any medical support,

as provided in Section 11475.1, and payments, as described in subdivision (a), due any person for whom medical services are requested or obtained.

(c) Cooperate with the state in identifying and providing information to assist the state in pursuing any third party who may be liable to pay for care and services available under the Medi-Cal program.

(d) The State Department of Health Services shall establish an exclusive list of acts, in accordance with federal law, which shall be the only acts deemed to be a refusal to offer reasonable cooperation and assistance. The county welfare department shall verify that the applicant or recipient refused to offer reasonable cooperation prior to determining that the applicant or recipient is ineligible. The granting of medical services shall not be delayed or denied if the applicant is otherwise eligible, if the applicant completes the necessary forms and agrees to cooperate with the district attorney in securing medical support and determining paternity, where applicable.

(e) An applicant or beneficiary shall be considered to be cooperating with the county welfare department or the district attorney's office and shall be eligible for medical services, if otherwise eligible, if the applicant or beneficiary cooperates to the best of his or her ability or has good cause for refusal to cooperate with the requirements in subdivisions (b) and (c). The State Department of Health Services, in accordance with federal law, shall establish standards for determining good cause for refusal to cooperate.

The county welfare department shall insure that all applicants for or beneficiaries of medical services under this chapter or Chapter 8 (commencing with Section 14200) are properly notified of the conditions imposed by this section.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to comply with the newly enacted federal requirement that California provide child support enforcement services to all families which are Medi-Cal eligible, it is essential that this act take effect immediately.

CHAPTER 807

An act to amend Section 6981 of the Food and Agricultural Code, relating to fruit and nut trees, and making an appropriation therefor.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 6981 of the Food and Agricultural Code is amended to read:

6981. (a) Until April 1, 1989, an annual assessment of one-quarter of 1 percent shall be levied on the gross sales of all pome and stone fruit trees, nut trees, and grapevines, including seedlings and root-stocks, except ornamental varieties, produced and sold within the state or produced within and shipped from the state by any licensed nursery dealer during that dealer's applicable license period. After April 1, 1989, the annual assessment shall increase to 1 percent.

(b) The director may set the assessment at a lower percent to cover the costs necessary to implement and carry out all department programs established pursuant to Article 7 (commencing with Section 5821) of Chapter 8 of Part 1 concerning the registration and certification of pome and stone fruit trees, nut trees, and grapevines; the University of California foundation plant materials service activities concerning pome and stone fruit trees, nut trees, and grapevines; and other activities related to the development of planting materials for pome and stone fruit trees, nut trees, and grapevines.

CHAPTER 808

An act to add Chapter 23 (commencing with Section 22700) to Division 8 of the Business and Professions Code, relating to tanning facilities.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Chapter 23 (commencing with Section 22700) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 23. TANNING FACILITIES

22700. This chapter shall be known and may be cited as the Filante Tanning Facility Act of 1988.

22701. The Legislature finds and declares:

(a) Many physicians and scientists now warn that the risks associated with suntanning are greater when tanning with artificial ultraviolet light.

(b) These risks include, but are not limited to, sunburn, premature aging, skin cancer, retinal damage, formation of cataracts, suppression of the immune system, and damage to the vascular system.

(c) Certain medications, cosmetics, and foods are "photosensitizing," which means that in some people they react unfavorably with ultraviolet light to produce skin rashes or burns.

(d) Sunlamps and other artificial sources of ultraviolet light are known to intensify these effects.

(e) The creation of state law to protect and promote the public health safety, and welfare is needed concerning tanning with artificial ultraviolet light.

22702. As used in this chapter:

(a) "Tanning facility" means any location, place, area, structure, or business which provides persons access to any tanning device.

(b) "Department" means the Department of Consumer Affairs.

(c) "Phototherapy device" means equipment that emits ultraviolet radiation used by a health care professional in the treatment of disease.

(d) "Tanning device" means any equipment that emits electromagnetic radiation with wavelengths in the air between 200 and 400 nanometers used for tanning of the skin, including, but not limited to a sunlamp, tanning booth, or tanning bed. Tanning device also means any accompanying equipment, including, but not limited to, protective eyewear, timers, and handrails.

22703. This chapter does not apply to a phototherapy device used by or under the direct supervision of a licensed physician who is trained in the use of phototherapy devices.

22704. Any tanning device used by a tanning facility shall comply with all applicable federal laws and regulations.

22705. A tanning facility shall give each customer a written statement warning that:

(1) Not wearing the eye protection provided to the customer by the tanning center may cause damage to the eyes.

(2) Over exposure causes burns.

(3) Repeated exposure may cause premature aging of the skin and skin cancer.

(4) Abnormal skin sensitivity or burning may be caused by certain:

(A) Foods.

(B) Cosmetics.

(C) Medications, including, but not limited to, the following:
(i) Tranquilizers.
(ii) Diuretics.
(iii) Antibiotics.
(iv) High blood pressure medicines.
(v) Birth control pills.

(5) Any person taking a prescription or over-the-counter drug should consult a physician before using a tanning device.

(b) A tanning facility shall post a warning sign in any area where a tanning device is used. The sign shall read as follows:

DANGER: ULTRAVIOLET RADIATION

1. Follow instructions.
2. Avoid too frequent or too lengthy exposure. As with natural sunlight, exposure can cause eye and skin injury and allergic reactions. Repeated exposure may cause chronic sun damage characterized by wrinkling, dryness, fragility and bruising of the skin, and skin cancer.
3. Wear protective eyewear.

FAILURE TO USE PROTECTIVE EYEWEAR MAY RESULT IN SEVERE BURNS OR LONG-TERM INJURY TO THE EYES.

4. Ultraviolet radiation from sun lamps will aggravate the effects of the sun. Therefore, do not sunbathe before or after exposure to ultraviolet radiation.
5. Medications or cosmetics may increase your sensitivity to ultraviolet radiation. Consult a physician before using a sunlamp if you are using medications, have a history of skin problems, or believe you are especially sensitive to sunlight. Pregnant women or women on birth control pills who use this product may develop discolored skin.

IF YOU DO NOT TAN IN THE SUN YOU WILL NOT TAN FROM USE OF THIS DEVICE.

(d) A tanning facility shall not claim, or distribute promotional materials that claim, that using a tanning device is safe or free from risk.

(e) The liability of a tanning facility operator or a manufacturer of a tanning device is not changed by giving the warning under this section.

22706. (a) A tanning facility shall:

(1) Have an operator present during operating hours who is sufficiently knowledgeable in the correct operation of the tanning devices used at the facility so that he or she is able to inform and assist each customer in the proper use of the tanning devices.

(2) Before each use of a tanning device, provide each customer with properly sanitized protective eyewear that protects the eye from ultraviolet radiation and allows adequate vision to maintain balance; and not allow a person to use a tanning device if that person does not use the protective eyewear.

(3) Show each customer how to use suitable physical aids, such as handrails and markings on the floor, to maintain proper exposure distance as recommended by the manufacturer.

(4) Use a timer that has an accuracy of plus or minus 10 percent of any selected timer interval.

(5) Limit each customer to the maximum exposure time as recommended by the manufacturer.

(6) Control the interior temperature of a tanning facility so that it does not exceed 100 degrees F.

(b) (1) Every person who uses a tanning facility shall sign a written statement acknowledging that he or she has read and understood the warnings before using the device; and agrees to use the protective eyewear that the tanning facility provides. The statement of acknowledgment shall be retained by the tanning facility until the end of the calendar year at which time each person who is a current customer of the facility shall be required to renew that acknowledgment.

(2) Whenever using a tanning device a person shall use the protective eyewear that the tanning facility provides.

(3) Before any person between the ages of 14 and 18 uses a tanning device, he or she shall give the tanning facility a statement signed by his or her parent or legal guardian stating that the parent or legal guardian has read and understood the warnings given by the tanning facility, consents to the minor's use of a tanning device, and agrees that the minor will use the protective eyewear that the tanning facility provides.

(4) A person under the age of 14 shall be accompanied by a parent or legal guardian when using a tanning device.

22707. If a patron is injured whereupon he or she must seek medical attention, a tanning facility shall do the following:

(a) Report any injury to the department.

(b) Send a copy of the injury report to the person who is injured.

(c) Send a copy of the injury report to the Federal Food and Drug Administration.

22708. A violation of this chapter is a misdemeanor. Each day a violation continues constitutes a separate offense.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 809

An act to add Section 1242 to the Government Code, relating to state employees, and making an appropriation therefor.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 1242 is added to the Government Code, to read:

1242. (a) A state employee, as defined by Section 3513 or employed by the state as provided for in Article VI of the Constitution, may elect to participate in a State Employees' Dependent Care Assistance Program or a Health Care Reimbursement Account, or both, administered by the Department of Personnel Administration, under which program the value thereof, to the extent permissible by Sections 105(b), 129, and 213(d) of the Internal Revenue Code, shall be excluded from gross income, in lieu of his or her compensation and shall be transmitted to the State Employees' Dependent Care Assistance and Health Care Assistance Fund. A participant in the program shall, during enrollment, be subject to the applicable federal statutes and related administrative regulations adopted by the Department of Personnel Administration.

(b) There is in the State Treasury the State Employees' Dependent Care Assistance and Health Care Assistance Fund which is, notwithstanding Section 13340, continuously appropriated without regard to fiscal years to the Department of Personnel Administration for expenditure to implement the State Employees' Dependent Care Assistance Program and the Health Care Reimbursement Account and to pay the related administrative costs. The fund shall consist of the amounts received pursuant to subdivision (a) and amounts appropriated therefor in the annual Budget Act and other statutes.

CHAPTER 810

An act to amend Sections 4830.5 and 4875.6 of the Business and Professions Code, relating to veterinarians.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 4830.5 of the Business and Professions Code

is amended to read:

4830.5. Whenever any licensee under this chapter has reasonable cause to believe that a dog has been injured or killed through participation in a staged animal fight, as prescribed in Section 597b of the Penal Code, it shall be the duty of the licensee to promptly report the same to the appropriate law enforcement authorities of the county, city, or city and county in which the same occurred.

No licensee shall incur any civil liability as a result of making any report pursuant to this section or as a result of making any report of a violation of Section 596, subdivision (a) or (b) of Section 597, or Section 597b, 597f, 597g, 597n, or 597.5 of the Penal Code.

SEC. 2. Section 4875.6 of the Business and Professions Code is amended to read:

4875.6. (a) If a veterinarian or an unlicensed person desires to administratively contest a civil citation or the proposed assessment of a civil penalty therefor, he or she shall, within 10 business days after service of the citation, notify the executive officer in writing of his or her request for an informal conference with the executive officer or his or her designee. The executive officer or his or her designee shall hold, within 60 days from the receipt of the request, an informal conference. At the conclusion of the informal conference, the executive officer may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty, and he or she shall state with particularity in writing his or her reasons for the action, and shall immediately transmit a copy thereof to the board, the veterinarian or unlicensed person, and the person who submitted the verified complaint. If the veterinarian or unlicensed person desires to administratively contest a decision made after the informal conference, he or she shall inform the executive officer in writing within five business days after he or she receives the decision resulting from the informal conference.

If the veterinarian or unlicensed person fails to notify the executive officer in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision made after an informal conference shall be deemed a final order of the board and shall not be subject to further administrative review.

Notwithstanding any other provision of law, where a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

(b) A veterinarian or an unlicensed person may, in lieu of contesting a citation pursuant to this section, transmit to the board the amount assessed in the citation as a civil penalty, within 10 business days after service of the citation. An unlicensed person may notify the board that he or she wishes to proceed directly to a judicial hearing which may be brought by the board under subdivision (e),

without engaging in an informal conference or administrative hearing. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

(c) If a veterinarian or an unlicensed person has notified the executive officer within 30 days of the issuance of the assessment or citation that he or she intends to contest the decision made after the informal conference, the executive officer shall arrange a hearing to be held in accordance with Section 11512 of the Government Code. After the hearing, the board and administrative law judge shall issue a decision, based on findings of fact, affirming, modifying, or vacating the citation, or directing other appropriate relief which shall include, but need not be limited to, a notice that the failure of a veterinarian or unlicensed person to comply with any provision of the board's decision constitutes grounds for suspension, or denial of licensure, or both. The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(d) After the exhaustion of the review procedures provided for in this section, the board may bring an action in the appropriate court in the county in which the offense occurred to recover the civil penalty and obtain an order compelling the cited person to comply with the order of abatement. In that action, the complaint shall include a certified copy of the final order of the board, together with the factual findings and recommendation of the board's designee. The findings of the board's designee shall be prima facie evidence of the facts stated therein, and in the absence of contrary evidence may serve as the basis for the issuance of the judgment and order.

(e) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board. When a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.

(f) Any civil penalties received under this chapter shall be deposited in the Board of Examiners in Veterinary Medicine Contingent Fund.

CHAPTER 811

An act to amend Section 1170.95 of the Penal Code, relating to crimes.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 1170.95 of the Penal Code is amended to read:

1170.95. (a) Notwithstanding Section 1170.1 relating to the maximum total of subordinate terms for consecutive offenses which are not "violent felonies," the total of the subordinate terms for consecutive offenses which are all residential burglaries may exceed five years but shall not exceed 10 years.

(b) Notwithstanding Section 1170.1, the term of imprisonment may exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 if the defendant stands convicted of at least two residential burglaries.

(c) Notwithstanding Section 1170.1, relating to the maximum total of subordinate terms for consecutive offenses that are not "violent felonies," the total of the subordinate terms for consecutive offenses that are all residential robberies may exceed five years but shall not exceed 10 years.

(d) Notwithstanding Section 1170.1, the term of imprisonment may exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 if the defendant stands convicted of at least two residential robberies.

(e) When a consecutive term of imprisonment is imposed pursuant to Sections 669 and 1170 which involves two or more convictions for robbery where it is charged and found that in each of those robberies that the defendant personally used a deadly or dangerous weapon in the commission of that robbery, as provided in subdivision (b) of Section 12022, and each of those robberies is not a violent felony, as defined in subdivision (c) of Section 667.5, the aggregate term shall be calculated as provided in subdivision (a) of Section 1170.1, except that the subordinate term for each subsequent robbery conviction shall consist of one-third of the middle term of imprisonment and one-third of the enhancement provided in subdivision (b) of Section 12022. Notwithstanding Section 1170.1, the total number of subordinate terms imposed under this subdivision may exceed five years but shall not exceed 10 years.

(f) As used in this section, "residential burglary" means burglary of an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building.

(g) As used in this section, "residential robbery" means a robbery

that is perpetrated in an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building.

SEC. 2. Section 1170.95 of the Penal Code is amended to read:

1170.95. (a) Notwithstanding Section 1170.1 relating to the maximum total of subordinate terms for consecutive offenses which are not "violent felonies," the total of the subordinate terms for consecutive offenses which are all residential burglaries may exceed five years but shall not exceed 10 years.

(b) Notwithstanding Section 1170.1, the term of imprisonment may exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 if the defendant stands convicted of at least two residential burglaries.

(c) Notwithstanding Section 1170.1, relating to the maximum total of subordinate terms for consecutive offenses that are not "violent felonies," the total of the subordinate terms for consecutive offenses that are all residential robberies may exceed five years but shall not exceed 10 years.

(d) Notwithstanding Section 1170.1, the term of imprisonment may exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 if the defendant stands convicted of at least two residential robberies.

(e) Notwithstanding Section 1170.1 relating to the maximum total of subordinate terms for consecutive offenses that are not "violent felonies," the total of the subordinate terms for consecutive offenses that are all residential arsons may exceed five years but shall not exceed 10 years.

(f) Notwithstanding Section 1170.1, the term of imprisonment may exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 if the defendant stands convicted of at least two residential arsons.

(g) When a consecutive term of imprisonment is imposed pursuant to Sections 669 and 1170 which involves two or more convictions for robbery where it is charged and found that in each of those robberies that the defendant personally used a deadly or dangerous weapon in the commission of that robbery, as provided in subdivision (b) of Section 12022, and each of those robberies is not a violent felony, as defined in subdivision (c) of Section 667.5, the aggregate term shall be calculated as provided in subdivision (a) of Section 1170.1, except that the subordinate term for each subsequent robbery conviction shall consist of one-third of the middle term of imprisonment and one-third of the enhancement provided in subdivision (b) of Section 12022. Notwithstanding Section 1170.1, the total number of subordinate terms imposed under this subdivision may exceed five years but shall not exceed 10 years.

(h) As used in this section, "residential burglary" means burglary of an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building.

(i) As used in this section, "residential robbery" means a robbery that is perpetrated in an inhabited dwelling house or trailer coach, as defined in Section 635 of the Vehicle Code, or the inhabited portion of any other building.

(j) As used in this section, "residential arson" means arson committed in violation of subdivision (b) of Section 451 where it is charged and proved that the defendant intentionally set fire to or burned or caused the burning of a distinct inhabited structure or a distinct inhabited property in the commission of that offense.

SEC. 3. Section 2 of this bill incorporates amendments to Section 1170.95 of the Penal Code proposed by both this bill and AB 2750. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 1170.95 of the Penal Code, and (3) this bill is enacted after AB 2750, in which case Section 1 of this bill shall not become operative.

CHAPTER 812

An act to amend Sections 10781, 16421, 20221, 21057, and 21058 of, and to add Section 21068 to, the Food and Agricultural Code, relating to animals, and making an appropriation therefor.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 10781 of the Food and Agricultural Code is amended to read:

10781. The director may adopt regulations to control or eradicate hog cholera, swine brucellosis, pseudorabies, and other swine diseases in any of the following ways:

(a) Through limitations on the movement of swine.

(b) Through the use of hog cholera vaccine, or other biologics.

(c) Through tests or vaccinations.

(d) Any other similar means that he or she finds and determines is necessary.

SEC. 1.5. Section 16421 of the Food and Agricultural Code is amended to read:

16421. (a) Except as otherwise provided in this part or in subdivision (b), every person that violates this part is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), by imprisonment of not less than 10 days nor more than one year, or by both the fine and imprisonment. Each violation during any day shall constitute a separate offense.

(b) Every person who violates the following is guilty of a misdemeanor and upon conviction shall be punished by a fine of not

less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), by imprisonment of not less than 10 days nor more than six months, or by both the fine and imprisonment. Each violation during any day shall constitute a separate offense:

(1) Article 1 (commencing with Section 16501) of Chapter 3.

(2) Chapter 5 (commencing with Section 16801).

(3) Article 5 (commencing with Section 17121) of Chapter 7.

(4) Chapter 8 (commencing with Section 17150).

SEC. 2. Section 20221 of the Food and Agricultural Code is amended to read:

20221. Every person that violates this division is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than one year, or by both that fine and imprisonment. Each violation during any day constitutes a separate offense.

SEC. 3. Section 21057 of the Food and Agricultural Code is amended to read:

21057. Except as provided in Section 21206, inspection is not required prior to slaughter at a licensed slaughterhouse when the cattle are being shipped direct from one of the following:

(a) A registered feedlot in this state.

(b) A public salesyard or cattle sales market in this state that is licensed pursuant to Section 21733 or posted by the United States Department of Agriculture under the Packers and Stockyards Act of 1921 (7 U.S.C. Sec. 181 et seq.).

(c) Out-of-state when accompanied by proper documents.

SEC. 4. Section 21058 of the Food and Agricultural Code is amended to read:

21058. All cattle shipped pursuant to Section 21057 shall be accompanied by one of the following:

(a) A bill of sale on an approved form giving the date of sale, the loading point, the name and address of the owner or consignor or both, the destination, the number of animals, the certificate number on which the animals were inspected into the feedlot, the lot number, if any, the name and address of the buyer, the name of the transporter or carrier and the license number of the vehicle used to transport the animals, and the signature of the owner or his or her authorized agent.

(b) A saleyard invoice meeting the requirements of Sections 21744 and 21745.

(c) A certificate of consignment on an approved form giving the date of sale, the loading point, the name and address of the owner or consignor or both, the destination, the number of animals, the certificate number on which the animals were inspected into the feedlot, the lot number, if any, the name and address of the buyer, the name of the transporter or carrier and the license number of the vehicle used to transport the animals, and the signature of the owner or his or her authorized agent.

(d) A brand inspection certificate or, for states with no inspection, a bill of sale or health certificate.

SEC. 5. Section 21068 is added to the Food and Agricultural Code, to read:

21068. (a) The director may issue a special permit to allow cattle to be transported out-of-state directly for immediate slaughter only, without the brand inspection required pursuant to this article, if all of the following conditions exist:

(1) The cattle were previously inspected in a registered feedlot.

(2) The cattle are transported to a licensed slaughterer.

(3) The cattle are accompanied by a permit document issued by the director.

(b) The director may charge a fee to cover the costs of issuing or renewing an annual permit. The fee may not exceed one hundred dollars ($100).

(c) The director may, at any time, revoke the permit and require a brand inspection if the director determines that this action is necessary to enforce this division.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 813

An act to amend Section 26463 of the Health and Safety Code, relating to AIDS.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 26463 of the Health and Safety Code is amended to read:

26463. It is unlawful for any person to advertise any drug or device represented to have any effect in any of the following conditions, disorders, or diseases:

(a) Appendicitis.

(b) Blood disorders.

(c) Bone or joint diseases.

(d) Kidney disease or disorders.

(e) Cancer.

(f) Carbuncles.

(g) Disease, disorder, or condition of the eye.

(h) Diabetes.

(i) Diphtheria.
(j) Gall bladder disease or disorder.
(k) Heart and vascular diseases.
(*l*) High blood pressure.
(m) Diseases or disorders of the ear or auditory apparatus, including hearing loss and deafness.
(n) Measles.
(o) Meningitis.
(p) Mental disease or mental retardation.
(q) Paralysis.
(r) Pneumonia.
(s) Poliomyelitis.
(t) Prostate gland disorders.
(u) Conditions of the scalp, affecting hair loss, or baldness.
(v) Alcoholism.
(w) Peridontal diseases.
(x) Epilepsy.
(y) Goiter.
(z) Endocrine disorders.
(aa) Sexual impotence.
(ab) Sinus infection.
(ac) Encephalitis.
(ad) Tumors.
(ae) Venereal disease.
(af) Tuberculosis.
(ag) Ulcers of the stomach.
(ah) Varicose ulcers.
(ai) Scarlet fever.
(aj) Typhoid fever.
(ak) Whooping cough.
(al) Acquired immune deficiency syndrome (AIDS).
(am) AIDS-related complex (ARC).
(an) Diseases, disorders, or conditions of the immune system.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 814

An act to amend Section 72247 of, and to add Section 72247.1 to, the Education Code, relating to education.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 72247 of the Education Code is amended to read:

72247. (a) The governing board of a community college district may require of students in attendance in grades 13 and 14 and employees of the district, the payment of a fee, in an amount not to exceed forty dollars ($40) per semester and twenty dollars ($20) per intersession to be fixed by the board, for parking services.

To encourage ridesharing and carpooling, for a student who certifies, in accordance with procedures fixed by the board, that he or she regularly has two or more passengers commuting to the community college with him or her in the vehicle parked at the community college, the fee shall not exceed thirty dollars ($30) per semester and ten dollars ($10) per intersession.

The fee shall only be required of students and employees using parking services. Students who receive financial assistance pursuant to any of the programs described in subdivision (g) of Section 72252 shall be exempt from parking fees in excess of twenty dollars ($20) per semester.

(b) The governing board of a community college district may also require the payment of a fee, to be fixed by the governing board, for the use of parking services by persons other than students and employees.

(c) All parking fees collected shall be deposited in the designated fund of the district in accordance with the California Community Colleges Budget and Accounting Manual and shall be expended only for parking services or for purposes of reducing the costs to students and employees of the college of using public transportation to and from the college.

Fees collected for use of parking services provided for by investment of student body funds under the authority of Section 76064 shall be deposited in a designated fund in accordance with the California Community Colleges Budget and Accounting Manual for repayment to the student organization.

"Parking services," as used in this section, means the purchase, construction, and operation and maintenance of parking facilities for vehicles and motor vehicles as defined by Sections 415 and 670 of the Vehicle Code, and the reduction of costs to students and employees of using public transportation to and from the college.

In no event may the fee required pursuant to this section exceed

the actual cost of providing parking services.

SEC. 2. Section 72247.1 is added to the Education Code, to read:

72247.1. Notwithstanding Section 72247, and except as otherwise provided in Section 72247.5, no community college district shall increase its parking fees above forty dollars ($40) per year to an amount within an authorized level pursuant to Section 72247 until the board of trustees of the community college district has made sufficient findings that a fee increase is necessary. The findings shall be based, at a minimum, on all of the following:

(a) A community college's ability to adequately finance its parking program.

(b) A demonstration that the community college has exhaustively explored all other options for financing the parking program, including entering into arrangements with local governments.

(c) A demonstration that the community college actively promotes modes of public transportation.

CHAPTER 815

An act to amend Section 38370 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 38370 of the Vehicle Code is amended to read:

38370. (a) The Department of Motor Vehicles shall not identify any new off-highway motor vehicle, which is subject to identification and which produces a maximum noise level that exceeds the following noise limit, at a distance of 50 feet from the centerline of travel, under test procedures established by the Department of the California Highway Patrol.

(1) Any such vehicle manufactured before January 1, 1973	92 dbA
(2) Any such vehicle manufactured on or after January 1, 1973, and before January 1, 1975	88 dbA
(3) Any such vehicle manufactured on or after January 1, 1975, and before January 1, 1986	86 dbA
(4) Any such vehicle manufactured on or after January 1, 1986	82 dbA

(b) The department may accept a dealer's certificate as proof of compliance with this section.

(c) Test procedures for compliance with this section shall be

established by the Department of the California Highway Patrol, taking into consideration the test procedures of the Society of Automotive Engineers.

(d) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a maximum noise level that exceeds the noise limits in subdivision (a), and for which noise emission standards or regulations have not been adopted by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(e) No person shall sell or offer for sale any new off-highway motor vehicle which is subject to identification and which produces a noise level that exceeds, or in any way violates, the noise emission standards or regulations adopted for such a motor vehicle by the Administrator of the Environmental Protection Agency pursuant to the Federal Noise Control Act of 1972 (P.L. 92-574).

(f) As used in this section, the term "identify" is equivalent to the term "licensing" as used in Section 6(e)(2) of the Federal Noise Control Act of 1972 (P.L. 92-574).

(g) Any off-highway motor vehicle, when operating pursuant to Section 38001, shall at all times be equipped with a silencer, or other device, which limits noise emissions to not more than 101 dbA if manufactured on or after January 1, 1975, or 105 dbA if manufactured before January 1, 1975, when measured from a distance of 20 inches using test procedures established by the Society of Automotive Engineers under Standard J-1287, as revised January 1988.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 816

An act to amend Sections 241 and 243 of, and to repeal Section 243.6 of, the Penal Code, relating to assault and battery.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 241 of the Penal Code, as amended by Chapter 160 of the Statutes of 1988, is amended to read:

241. (a) An assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both the fine and imprisonment.

(b) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

(c) As used in this section, the following definitions apply:

(1) Peace officer means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" refers to those persons who meet the standards set forth in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Lifeguard" means a person who is:

(A) Employed as a lifeguard by the state, a county, or a city, and is designated by local ordinance as a public officer who has a duty and responsibility to enforce local ordinances and misdemeanors through the issuance of citations.

(B) Wearing distinctive clothing which includes written identification of the person's status as a lifeguard and which clearly identifies the employing organization.

(6) "Process server" means any person who meets the standards or is expressly exempt from the standards set forth in Section 22350 of the Business and Professions Code.

(7) "Traffic officer" means any person employed by a county or city to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(8) "Animal control officer" means any person employed by a county or city for purposes of enforcing animal control laws or regulations.

SEC. 2. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by a fine of not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not

exceeding six months, or by both such fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) When a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that the victim is a peace officer, custodial officer, firefighter, emergency medical technician, mobile intensive care paramedic, lifeguard, process server, traffic officer, or animal control officer engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

(e) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by

the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" means any person who meets the standards set forth in Section 1797.84 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(6) "Injury" means any physical injury which requires professional medical treatment.

(7) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

(8) "Lifeguard" means a person defined in paragraph (5) of subdivision (c) of Section 241.

(9) "Traffic officer" means any person employed by a city, county, or city and county, to monitor and enforce state laws and local ordinances relating to parking and the operation of vehicles.

(10) "Animal control officer" means any person employed by a city, county, or city and county for purposes of enforcing animal control laws or regulations.

It is the intent of the Legislature by amendments to this section at the 1981–82 and 1983–84 Regular Sessions to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 738, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, while wearing a police uniform as private security guards or patrolmen and to allow the exercise of peace officer powers concurrently with that employment.

SEC. 3. Section 243.6 of the Penal Code is repealed.

CHAPTER 817

An act to amend Section 8726 of, and to add Section 8726.2 to, the Business and Professions Code, relating to surveying.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 8726 of the Business and Professions Code is amended to read:

8726. A person, including any person employed by the state or by a city, county, or city and county within the state, practices land surveying within the meaning of this chapter who, either in a public or private capacity, does or offers to do any one or more of the following:

(a) Locates, relocates, establishes, reestablishes, or retraces the alignment or elevation for any of the fixed works embraced within the practice of civil engineering, as described in Section 6731.

(b) Determines the configuration or contour of the earth's surface, or the position of fixed objects thereon or related thereto, by means of measuring lines and angles, and applying the principles of trigonometry or photogrammetry.

(c) Locates, relocates, establishes, reestablishes, or retraces any property line or boundary of any parcel of land, right-of-way, easement, or alignment of those lines or boundaries.

(d) Makes any survey for the subdivision or resubdivision of any tract of land. For the purposes of this subdivision, the term "subdivision" or "resubdivision" shall be defined to include, but not limited to, the definition in the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code).

(e) By the use of the principles of land surveying determines the position for any monument or reference point which marks a property line, boundary, or corner, or sets, resets, or replaces any such monument or reference point.

(f) Geodetic or cadastral surveying.

(g) Determines the information shown or to be shown on any map or document prepared or furnished in connection with any one or more of the functions described in subdivisions (a), (b), (c), (d), (e), and (f).

(h) Indicates, in any capacity or in any manner, by the use of the title "land surveyor" or by any other title or by any other representation that he or she practices or offers to practice land surveying in any of its branches.

(i) Procures or offers to procure land surveying work for himself,

herself, or others.

(j) Manages, or conducts as manager, proprietor, or agent, any place of business from which land surveying work is solicited, performed, or practiced.

(k) Coordination of the work of professional, technical, or special consultants in connection with the activities authorized by this chapter.

(*l*) Determines the information shown or to be shown within the description of any deed, trust deed, or other title document prepared for the purpose of describing the limit of real property in connection with any one or more of the functions described in subdivisions (a) to (f), inclusive.

Any department or agency of the state or any city, county, or city and county which has an unregistered person in responsible charge of land surveying work on the effective date of the amendments made to this section at the 1984–85 Regular Session of the Legislature shall be exempt from the requirement that the person be licensed as a land surveyor until such time as the person currently in responsible charge is replaced.

The review, approval, or examination by a governmental entity of documents prepared or performed pursuant to this section shall be done by, or under the direct supervision of, a person authorized to practice land surveying.

SEC. 2. Section 8726.2 is added to the Business and Professions Code, to read:

8726.2. A licensed land surveyor may also perform land planning in connection with the land surveying activities authorized by this chapter.

SEC. 3. Nothing contained in this act is intended to restrict the ability of a local agency to use nonlicensed persons to perform administrative or business activities related to land surveying.

SEC. 4. The amendment in Section 1 of this act is declaratory of existing law and is not intended to restrict the scope of practice of registered professional engineers within their respective scope of practice.

SEC. 5. The amendment in Section 1 of this act is declaratory of existing law and is not intended to restrict the practice of persons licensed to practice law in California, nor is it intended to be applicable to persons licensed pursuant to Part 6 (commencing with Section 12340) of Division 2 of the Insurance Code, nor to persons licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, so long as those persons engage in the respective practice of their profession, but who may coordinate work pursuant to subdivision (k) of Section 8726 of the Business and Professions Code.

CHAPTER 818

An act to add Sections 17540.14, 17540.15, and 17540.16 to the Business and Professions Code, relating to travel promoters.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 17540.14 is added to the Business and Professions Code, to read:

17540.14. "Travel certificate," as used in this article, means a writing that represents the holder is entitled to air or sea transportation or lodging, to a discount or reduced price for that transportation or lodging, or to purchase that transportation or lodging from a specified source, whether or not the holder is required to pay additional money or fulfill any requirements in order to utilize the certificate.

SEC. 2. Section 17540.15 is added to the Business and Professions Code, to read:

17540.15. (a) Not less than 10 days prior to doing business in this state, a travel promoter shall register with the office of the Attorney General by filing with the Consumer Law Section the information required by Section 17540.16 and a filing fee of fifty dollars ($50). A travel promoter shall be deemed to do business in this state if the travel promoter solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state.

(b) Registration shall be valid for one year from the effective date thereof and may be annually renewed by making the filing required by Section 17540.16 and paying a filing fee of fifty dollars ($50).

(c) Whenever, prior to expiration of a travel promoter's annual registration, there is a material change in the information required by Section 17540.16, the travel promoter shall, within 10 days, file an addendum updating the information with the Consumer Law Section of the office of the Attorney General.

SEC. 3. Section 17540.16 is added to the Business and Professions Code, to read:

17540.16. Each filing pursuant to Section 17540.15 shall contain the following information:

(a) The name or names of the travel promoter, including the name under which the travel promoter is doing or intends to do business, if different from the name of the travel promoter.

(b) The travel promoter's business form and place of organization and, if operating under a fictitious business name, the location where the fictitious name has been registered.

(c) The complete street address or addresses of all locations from which the travel promoter will be conducting business, including, but not limited to, locations at which telephone calls will be received

from, or made to, prospective purchasers. The statement shall designate which location is the principal place of business.

(d) The complete business and residential address, the driver's license number and state of issuance, and the date of birth of each owner and principal of the travel promoter. "Owner" means a person who owns or controls 10 percent or more of the equity of, or otherwise has claim to 10 percent or more of the net income of, a travel promoter. "Principal" means an owner, an officer of a corporation, a general partner of a partnership, or a sole proprietor of a sole proprietorship.

(e) A statement as to whether any owner or principal has had entered against him or her a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of this article, or alleged acts which would constitute acting as a travel promoter, as defined in Section 17540.1. The statement shall identify the person, the court or administrative agency rendering the judgment or order, the docket number of the matter, and the date of the judgment or order.

(f) A copy of the travel certificates, if any, which are or will be sold, marketed, or distributed to any person or entity by the travel promoter.

(g) The location and number of all trust accounts required by Section 17540.10 to be maintained by the travel promoter or, if a bond is maintained in lieu of the trust account as provided by Section 17540.10, a copy of that bond.

(h) A statement signed by each owner and principal granting permission to the office of the Attorney General to obtain from any bank or savings and loan association at which any trust account required by Section 17540.10 is maintained information relating to that trust account.

The information required by this section shall be verified by a declaration signed by each owner and principal of the travel promoter under penalty of perjury. The declaration shall specify the date and location of signing.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 819

An act to amend Sections 1740, 1742, 1744, 1745, and 1745.5 of the Civil Code, relating to fine art.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 1740 of the Civil Code is amended to read:

1740. As used in this title:

(a) "Fine art multiple" or "multiple" for the purposes of this title means any fine print, photograph (positive or negative), sculpture cast, collage, or similar art object produced in more than one copy. Pages or sheets taken from books and magazines and offered for sale or sold as art objects shall be included, but books and magazines shall be excluded.

(b) "Fine print" or "print" means a multiple produced by, but not limited to, engraving, etching, woodcutting, lithography, and serigraphy, and means multiples produced or developed from photographic negatives, or any combination thereof.

(c) "Master" is used in lieu of and has the same meaning as a printing plate, stone, block, screen, photographic negative, or mold or other process as to a sculpture, which contains an image used to produce fine art objects in multiples.

(d) "Artist" means the person who created the image which is contained in, or constitutes, the master or conceived of, and approved the image which is contained in, or constitutes, the master.

(e) Whether a multiple is "signed" or "unsigned" as these terms are used in this title relating to prints and photographs, depends upon whether or not the multiple was autographed by the artist's own hand, and not by mechanical means, after the multiple was produced, irrespective of whether it was signed or unsigned in the plate.

(f) "Impression" means each individual fine art multiple made by printing, stamping, casting, or any other process.

(g) "Art dealer" means a person who is in the business of dealing, exclusively or nonexclusively, in the fine art multiples to which this title is applicable, or a person who by his or her occupation holds himself or herself out as having knowledge or skill peculiar to these works, or to whom that knowledge or skill may be attributed by his or her employment of an agent or other intermediary who by his or her occupation holds himself or herself out as having that knowledge or skill. The term "art dealer" includes an auctioneer who sells such works at public auction, but excludes persons, not otherwise defined or treated as art dealers herein, who are consignors or principals of auctioneers.

(h) "Limited edition" means fine art multiples produced from a

master, all of which are the same image and bear numbers or other markings to denote the limited production thereof to a stated maximum number of multiples, or are otherwise held out as limited to a maximum number of multiples.

(i) "Proofs" means multiples which are the same as, and which are produced from the same master as, the multiples in a limited edition, but which, whether so designated or not, are set aside from and are in addition to the limited edition to which they relate.

(j) "Certificate of authenticity" means a written or printed description of the multiple which is to be sold, exchanged, or consigned by an art dealer. Every certificate shall contain the following statement:

"This is to certify that all information and the statements contained herein are true and correct."

(k) "Person" means an individual, partnership, corporation, association, or other entity, however organized.

SEC. 2. Section 1742 of the Civil Code is amended to read:

1742. (a) An art dealer shall not sell or consign a multiple into or from this state unless a certificate of authenticity is furnished to the purchaser or consignee, at his or her request, or in any event prior to a sale or consignment, which sets forth as to each multiple, the descriptive information required by Section 1744 for any period. If a prospective purchaser so requests, the certificate shall be transmitted to him or her prior to the payment or placing of an order for a multiple. If payment is made by a purchaser prior to delivery of such a multiple, this certificate shall be supplied at the time of or prior to delivery. With respect to auctions, this information may be furnished in catalogues or other written materials which are made readily available for consultation and purchase prior to sale, provided that a bill of sale, receipt, or invoice describing the transaction is then provided which makes reference to the catalogue and lot number in which this information is supplied. Information supplied pursuant to this subdivision shall be clearly, specifically and distinctly addressed to each of the items listed in Section 1744 unless the required data is not applicable. This section is applicable to transactions by and between art dealers and others considered to be art dealers for the purposes of this title.

(b) An art dealer shall not cause a catalogue, prospectus, flyer, or other written material or advertisement to be distributed in, into, or from this state which solicits a direct sale, by inviting transmittal of payment for a specific multiple, unless it clearly sets forth, in close physical proximity to the place in such material where the multiple is described, the descriptive information required by Section 1744 for any time period. In lieu of this required information, the written material or advertising may set forth the material contained in the following quoted passage, or the passage itself, if the art dealer then supplies the required information prior to or with delivery of the multiple. The nonobservance of the terms within the following passage shall constitute a violation of this title:

"California law provides for disclosure in writing of information concerning certain fine prints, photographs, and sculptures prior to effecting a sale of them. This law requires disclosure of such matters as the identity of the artist, the artist's signature, the medium, whether the multiple is a reproduction, the time when the multiple was produced, use of the plate which produced the multiple, and the number of multiples in a "limited edition." If a prospective purchaser so requests, the information shall be transmitted to him or her prior to payment, or the placing of an order for a multiple. If payment is made by a purchaser prior to delivery of the multiple, this information will be supplied at the time of or prior to delivery, in which case the purchaser is entitled to a refund if, for reasons related to matter contained in such information, he or she returns the multiple in the condition in which received, within 30 days of receiving it. In addition, if after payment and delivery, it is ascertained that the information provided is incorrect, the purchaser may be entitled to certain remedies, including refund upon return of the multiple in the condition in which received."

This requirement is not applicable to general written material or advertising which does not constitute an offer to effect a specific sale.

(c) In each place of business in the state where an art dealer is regularly engaged in sales of multiples, the art dealer shall post in a conspicuous place, a sign which, in a legible format, contains the information included in the following passage:

"California law provides for the disclosure in writing of certain information concerning prints, photographs, and sculpture casts. This information is available to you, and you may request to receive it prior to purchase."

(d) If an art dealer offering multiples by means of a catalogue, prospectus, flyer or other written material or advertisement distributed in, into or from this state disclaims knowledge as to any relevant detail referred to in Section 1744, he or she shall so state specifically and categorically with regard to each such detail to the end that the purchaser shall be enabled to judge the degree of uniqueness or scarcity of each multiple contained in the edition so offered. Describing the edition as an edition of "reproductions" eliminates the need to furnish further informational details unless the edition was allegedly published in a signed, numbered, or limited edition, or any combination thereof, in which case all of the informational details are required to be furnished.

(e) Whenever an artist sells or consigns a multiple of his or her own creation or conception, the artist shall disclose the information required by Section 1744, but an artist shall not otherwise be regarded as an art dealer.

SEC. 3. Section 1744 of the Civil Code is amended to read:

1744. (a) Except as provided in subdivisions (c), (d), (e), and

otherwise in this title, a certificate of authenticity containing the following informational details shall be required to be supplied in all transactions covered by subdivisions (a), (b), and (e) of Section 1742:

(1) The name of the artist.

(2) If the artist's name appears on the multiple, a statement whether the multiple was signed by the artist.

If the multiple was not signed by the artist, a statement of the source of the artist's name on the multiple, such as whether the artist placed his signature on the multiple or on the master, whether his name was stamped or estate stamped on the multiple or on the master, or was from some other source or in some other manner placed on the multiple or on the master.

(3) A description of the medium or process, and where pertinent to photographic processes, the material used in producing the multiple, such as whether the multiple was produced through the etching, engraving, lithographic, serigraphic, or a particular method or material used in photographic developing processes. If an established term, in accordance with the usage of the trade, cannot be employed accurately to describe the medium or process, a brief, clear description shall be made.

(4) If the multiple or the image on or in the master constitutes, as to prints and photographs, a photomechanical or photographic type of reproduction, or as to sculptures a surmoulage or other form of reproduction of sculpture cases, of an image produced in a different medium, for a purpose other than the creation of the multiple being described, a statement of this information and the respective mediums.

(5) If paragraph (4) is applicable, and the multiple is not signed, a statement whether the artist authorized or approved in writing the multiple or the edition of which the multiple being described is one.

(6) If the purported artist was deceased at the time the master was made which produced the multiple, this shall be stated.

(7) If the multiple is a "posthumous" multiple, that is, if the master was created during the life of the artist but the multiple was produced after the artist's death, this shall be stated.

(8) If the multiple was made from a master which produced a prior limited edition, or from a master which constitutes or was made from a reproduction or surmoulage of a prior multiple or the master which produced the prior limited edition, this shall be stated as shall the total number of multiples, including proofs, of all other editions produced from that master.

(9) As to multiples produced after 1949, the year, or approximate year, the multiple was produced shall be stated. As to multiples produced prior to 1950, state the year, approximate year or period when the master was made which produced the multiple and when the particular multiple being described was produced. The requirements of this subdivision shall be satisfied when the year stated is approximately accurate.

(10) Whether the edition is being offered as a limited edition, and

if so: (i) the authorized maximum number of signed or numbered impressions, or both, in the edition; (ii) the authorized maximum number of unsigned or unnumbered impressions, or both, in the edition; (iii) the authorized maximum number of artist's, publisher's or other proofs, if any, outside of the regular edition; and (iv) the total size of the edition.

(11) Whether or not the master has been destroyed, effaced, altered, defaced, or canceled after the current edition.

(b) If the multiple is part of a limited edition, and was printed after January 1, 1983, the statement of the size of the limited edition, as stated pursuant to paragraph (10) of subdivision (a) of Section 1744 shall also constitute an express warranty that no additional multiples of the same image, including proofs, have been produced in this or in any other limited edition.

(c) If the multiple was produced in the period from 1950 to the effective date of this section, the information required to be supplied need not include the information required by paragraphs (5) and (8) of subdivision (a).

(d) If the multiple was produced in the period from 1900 to 1949, the information required to be supplied need only consist of the information required by paragraphs (1), (2), (3), and (9) of subdivision (a).

(e) If the multiple was produced before the year 1900, the information to be supplied need only consist of the information required by paragraphs (1), (3), and (9) of subdivision (a).

SEC. 4. Section 1745 of the Civil Code is amended to read:

1745. (a) An art dealer, including a dealer consignee, who offers or sells a multiple in, into or from this state without providing the certificate of authenticity required in Sections 1742 and 1744 of this title for any time period, or who provides information which is mistaken, erroneous or untrue, except for harmless errors, such as typographical errors, shall be liable to the purchaser of the multiple. The art dealer's liability shall consist of the consideration paid by the purchaser for the multiple, with interest at the legal rate thereon, upon the return of the multiple in the condition in which received by the purchaser.

(b) In any case in which an art dealer, including a dealer consignee, willfully offers or sells a multiple in violation of this title, the person purchasing such multiple may recover from the art dealer, including a dealer consignee, who offers or sells such multiple an amount equal to three times the amount required under subdivision (a).

(c) No action shall be maintained to enforce any liability under this section unless brought within one year after discovery of the violation upon which it is based and in no event more than three years after the multiple was sold.

(d) In any action to enforce any provision of this title, the court may allow the prevailing purchaser the costs of the action together with reasonable attorneys' and expert witnesses' fees. In the event,

however, the court determines that an action to enforce was brought in bad faith, it may allow such expenses to the seller as it deems appropriate.

(e) These remedies shall not bar or be deemed inconsistent with a claim for damages or with the exercise of additional remedies otherwise available to the purchaser.

(f) In any proceeding in which an art dealer relies upon a disclaimer of knowledge as to any relevant information set forth in Section 1744 for any time period, such disclaimer shall be effective unless the claimant is able to establish that the art dealer failed to make reasonable inquiries, according to the custom and usage of the trade, to ascertain the relevant information or that such relevant information would have been ascertained as a result of such reasonable inquiries.

SEC. 5. Section 1745.5 of the Civil Code is amended to read:

1745.5. (a) Any person performing or proposing to perform an act in violation of this title within this state may be enjoined in any court of competent jurisdiction.

(b) Actions for injunction pursuant to this title may be prosecuted by the following persons:

(1) The Attorney General.

(2) Any district attorney.

(3) Any city attorney.

(4) With the consent of the district attorney, a city prosecutor in any city or city and county having a full-time city prosecutor in the name of the people of the State of California upon their own complaint, or upon the complaint of any board, officer, person, corporation, or association.

(5) Any person acting in his or her own interests, or in the interests of the members of a corporation or association, or in the interests of the general public.

(c) Any person who violates any provision of this title may also be liable for a civil penalty not to exceed one thousand dollars ($1,000) for each violation, which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney, and, with the consent of the district attorney, by a city prosecutor in any city or city and county having a full-time city prosecutor in any court of competent jurisdiction.

If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(d) Any person who violates any provision of this title may also be

liable for a civil penalty surcharge not to exceed one thousand dollars ($1,000) for each violation which shall be assessed and recovered in the manner provided in subdivision (c). Any penalty surcharge collected shall be applied to the costs of enforcing this title by the prosecuting officer.

CHAPTER 820

An act to amend Section 66801 of the Government Code, relating to the Tahoe Regional Planning Compact.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 66801 of the Government Code is amended to read:

66801. The provisions of this interstate compact executed between the States of Nevada and California are as follows:

TAHOE REGIONAL PLANNING COMPACT

ARTICLE I. FINDINGS AND DECLARATIONS OF POLICY

(a) It is found and declared that:

(1) The waters of Lake Tahoe and other resources of the region are threatened with deterioration or degeneration, which endangers the natural beauty and economic productivity of the region.

(2) The public and private interests and investments in the region are substantial.

(3) The region exhibits unique environmental and ecological values which are irreplaceable.

(4) By virtue of the special conditions and circumstances of the region's natural ecology, developmental pattern, population distribution and human needs, the region is experiencing problems of resource use and deficiencies of environmental control.

(5) Increasing urbanization is threatening the ecological values of the region and threatening the public opportunities for use of the public lands.

(6) Maintenance of the social and economic health of the region depends on maintaining the significant scenic, recreational, educational, scientific, natural and public health values provided by the Lake Tahoe Basin.

(7) There is a public interest in protecting, preserving and enhancing these values for the residents of the region and for visitors to the region.

(8) Responsibilities for providing recreational and scientific

opportunities, preserving scenic and natural areas, and safeguarding the public who live, work and play in or visit the region are divided among local governments, regional agencies, the States of California and Nevada, and the federal government.

(9) In recognition of the public investment and multistate and national significance of the recreational values, the federal government has an interest in the acquisition of recreational property and the management of resources in the region to preserve environmental and recreational values, and the federal government should assist the states in fulfilling their responsibilities.

(10) In order to preserve the scenic beauty and outdoor recreational opportunities of the region, there is a need to insure an equilibrium between the region's natural endowment and its manmade environment.

(b) In order to enhance the efficiency and governmental effectiveness of the region, it is imperative that there be established a Tahoe Regional Planning Agency with the powers conferred by this compact including the power to establish environmental threshold carrying capacities and to adopt and enforce a regional plan and implementing ordinances which will achieve and maintain such capacities while providing opportunities for orderly growth and development consistent with such capacities.

(c) The Tahoe Regional Planning Agency shall interpret and administer its plans, ordinances, rules and regulations in accordance with the provisions of this compact.

ARTICLE II. DEFINITIONS

As used in this compact, the following terms have the following meanings:

(a) "Region," includes Lake Tahoe, the adjacent parts of Douglas and Washoe Counties and Carson City, which for the purposes of this compact shall be deemed a county, lying within the Tahoe Basin in the State of Nevada, and the adjacent parts of the Counties of Placer and El Dorado lying within the Tahoe Basin in the State of California, and that additional and adjacent part of the County of Placer outside of the Tahoe Basin in the State of California which lies southward and eastward of a line starting at the intersection of the basin crestline and the north boundary of Section 1, thence west to the northwest corner of Section 3, thence south to the intersection of the basin crestline and the west boundary of Section 10; all sections referring to Township 15 North, Range 16 East, M.D.B. & M. The region defined and described herein shall be as precisely delineated on official maps of the agency.

(b) "Agency" means the Tahoe Regional Planning Agency.

(c) "Governing body" means the governing board of the Tahoe Regional Planning Agency.

(d) "Regional plan" means the long-term general plan for the development of the region.

(e) "Planning commission" means the advisory planning commission appointed pursuant to subdivision (h) of Article III.

(f) "Gaming" means to deal, operate, carry on, conduct, maintain or expose for play any banking or percentage game played with cards, dice or any mechanical device or machine for money, property, checks, credit or any representative of value, including, without limiting the generality of the foregoing, faro, monte, roulette, keno, bingo, fan-tan, twenty-one, blackjack, seven-and-a-half, big injun, klondike, craps, stud poker, draw poker or slot machine, but does not include social games played solely for drinks, or cigars or cigarettes served individually, games played in private homes or residences for prizes or games operated by charitable or educational organizations, to the extent excluded by applicable state law.

(g) "Restricted gaming license" means a license to operate not more than 15 slot machines on which a quarterly fee is charged pursuant to NRS 463.373 and no other games.

(h) "Project" means an activity undertaken by any person, including any public agency, if the activity may substantially affect the land, water, air, space or any other natural resources of the region.

(i) "Environmental threshold carrying capacity" means an environmental standard necessary to maintain a significant scenic, recreational, educational, scientific or natural value of the region or to maintain public health and safety within the region. Such standards shall include but not be limited to standards for air quality, water quality, soil conservation, vegetation preservation and noise.

(j) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social and technological factors.

(k) "Areas open to public use" means all of the areas within a structure housing gaming under a nonrestricted license except areas devoted to the private use of guests.

(*l*) "Areas devoted to private use of guests" means hotel rooms and hallways to serve hotel room areas, and any parking areas. A hallway serves hotel room areas if more than 50 percent of the areas of each side of the hallway are hotel rooms.

(m) "Nonrestricted license" means a gaming license which is not a restricted gaming license.

ARTICLE III. ORGANIZATION

(a) There is created the Tahoe Regional Planning Agency as a separate legal entity.

The governing body of the agency shall be constituted as follows:

(1) California delegation:

(A) One member appointed by each of the County Boards of Supervisors of the Counties of El Dorado and Placer and one member appointed by the City Council of the City of South Lake

Tahoe. Any such member may be a member of the county board of supervisors or city council, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of California, one member appointed by the Speaker of the Assembly of California and one member appointed by the Senate Rules Committee of the State of California. The members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of California. A member appointed by the Speaker of the Assembly or the Senate Rules Committee may, subject to confirmation by his or her appointing power, designate an alternate to attend meetings and vote in the absence of the appointed member. The designation of a named alternate, which shall be in writing and contain evidence of confirmation by the appointing power, shall be kept on file with the agency. An appointed member may change his or her alternate from time to time, with the confirmation of the appointing power, but shall have only one designated alternate at a time. An alternate shall be subject to those qualifications and requirements prescribed by this compact that are applicable to the appointed member.

(2) Nevada delegation:

(A) One member appointed by each of the boards of county commissioners of Douglas and Washoe Counties and one member appointed by the Board of Supervisors of Carson City. Any such member may be a member of the board of county commissioners or board of supervisors, respectively, and shall reside in the territorial jurisdiction of the governmental body making the appointment.

(B) Two members appointed by the Governor of Nevada, one member appointed by the Speaker of the Assembly and one member appointed by the Majority Leader of the Nevada Senate. All members appointed pursuant to this subparagraph shall not be residents of the region and shall represent the public at large within the State of Nevada. A member appointed by the Speaker of the Nevada Assembly or the Majority Leader of the Nevada Senate may, subject to confirmation by his or her appointing power, designate an alternate to attend meetings and vote in the absence of the appointed member. The designation of a named alternate, which shall be in writing and contain evidence of confirmation by the appointing power, shall be kept on file with the agency. An appointed member may change his or her alternate from time to time, with the confirmation of the appointing power, but shall have only one designated alternate at a time. An alternate shall be subject to those qualifications and requirements prescribed by this compact that are applicable to the appointed member.

(3) If any appointing authority under paragraph (1) (A), (1) (B), (2) (A) or (2) (B) fails to make such an appointment within 60 days after the effective date of the amendments to this compact or the occurrence of a vacancy on the governing body, the governor of the

state in which the appointing authority is located shall make the appointment. The term of any member so appointed shall be 1 year.

(4) The position of any member of the governing body shall be deemed vacant if such a member is absent from three consecutive meetings of the governing body in any calendar year.

(5) Each member and employee of the agency shall disclose his economic interests in the region within 10 days after taking his seat on the governing board or being employed by the agency and shall thereafter disclose any further economic interest which he acquires, as soon as feasible after he acquires it. As used in this paragraph, "economic interests" means:

(A) Any business entity operating in the region in which the member or employee has a direct or indirect investment worth more than one thousand dollars ($1,000).

(B) Any real property located in the region in which the member or employee has a direct or indirect interest worth more than one thousand dollars ($1,000).

(C) Any source of income attributable to activities in the region, other than loans by or deposits with a commercial lending institution in the regular course of business, aggregating two hundred fifty dollars ($250) or more in value received by or promised to the member within the preceding 12 months; or

(D) Any business entity operating in the region in which the member or employee is a director, officer, partner, trustee, employee or holds any position of management.

No member or employee of the agency shall make, or attempt to influence, an agency decision in which he knows or has reason to know he has an economic interest. Members and employees of the agency must disqualify themselves from making or participating in the making of any decision of the agency when it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the economic interests of the member or employee.

(b) The members of the agency shall serve without compensation, but the expenses of each member shall be met by the body which he represents in accordance with the law of that body. All other expenses incurred by the governing body in the course of exercising the powers conferred upon it by this compact unless met in some other manner specifically provided, shall be paid by the agency out of its own funds.

(c) The members of the governing body serve at the pleasure of the appointing authority in each case, but each appointment shall be reviewed no less often than every 4 years. Members may be reappointed.

(d) The governing body of the agency shall meet at least monthly. All meetings shall be opened to the public to the extent required by the law of the State of California or the State of Nevada, whichever imposes the greater requirement, applicable to local governments at the time such meeting is held. The governing body shall fix a date

for its regular monthly meeting in such terms as "the first Monday of each month," and shall not change such date more often than once in any calendar year. Notice of the date so fixed shall be given by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region. Notice of any special meeting, except an emergency meeting, shall be given by so publishing the date and place and posting an agenda at least 5 days prior to the meeting.

(e) The position of a member of the governing body shall be considered vacated upon his loss of any of the qualifications required for his appointment and in such event the appointing authority shall appoint a successor.

(f) The governing body shall elect from its own members a chairman and vice chairman, whose terms of office shall be 2 years, and who may be reelected. If a vacancy occurs in either office, the governing body may fill such vacancy for the unexpired term.

(g) Four of the members of the governing body from each state constitute a quorum for the transaction of the business of the agency. The voting procedures shall be as follows:

(1) For adopting, amending or repealing environmental threshold carrying capacities, the regional plan, and ordinances, rules and regulations, and for granting variances from the ordinances, rules and regulations, the vote of at least four of the members of each state agreeing with the vote of at least four members of the other state shall be required to take action. If there is no vote of at least four of the members from one state agreeing with the vote of at least four of the members of the other state on the actions specified in this paragraph, an action of rejection shall be deemed to have been taken.

(2) For approving a project, the affirmative vote of at least five members from the state in which the project is located and the affirmative vote of at least nine members of the governing body are required. If at least five members of the governing body from the state in which the project is located and at least nine members of the entire governing body do not vote in favor of the project, upon a motion for approval, an action of rejection shall be deemed to have been taken. A decision by the agency to approve a project shall be supported by a statement of findings, adopted by the agency, which indicates that the project complies with the regional plan and with applicable ordinances, rules and regulations of the agency.

(3) For routine business and for directing the agency's staff on litigation and enforcement actions, at least eight members of the governing body must agree to take action. If at least eight votes in favor of such action are not cast, an action of rejection shall be deemed to have been taken.

Whenever under the provisions of this compact or any ordinance, rule, regulation or policy adopted pursuant thereto, the agency is required to review or approve any project, public or private, the

agency shall take final action by vote, whether to approve, to require modification or to reject such project, within 180 days after the application for such project is accepted as complete by the agency in compliance with the agency's rules and regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If a final action by vote does not take place within 180 days, the applicant may bring an action in a court of competent jurisdiction to compel a vote unless he has agreed to an extension. This provision does not limit the right of any person to obtain judicial review of agency action under subdivision (h) of Article VI. The vote of each member of the governing body shall be individually recorded. The governing body shall adopt its own rules, regulations and procedures.

(h) An advisory planning commission shall be appointed by the agency. The commission shall include: the chief planning officers of Placer County, El Dorado County, and the City of South Lake Tahoe in California and of Douglas County, Washoe County and Carson City in Nevada, the executive officer of the Lahontan Regional Water Quality Control Board of the State of California, the executive officer of the Air Resources Board of the State of California, the Director of the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Division of Environmental Protection in the State Department of Conservation and Natural Resources of the State of Nevada, the Administrator of the Lake Tahoe Management Unit of the United States Forest Service, and at least four lay members with an equal number from each state, at least half of whom shall be residents of the region. Any official member may designate an alternate.

The term of office of each lay member of the advisory planning commission shall be 2 years. Members may be reappointed.

The position of each member of the advisory planning commission shall be considered vacated upon loss of any of the qualifications required for appointment, and in such an event the appointing authority shall appoint a successor.

The advisory planning commission shall elect from its own members a chairman and a vice chairman, whose terms of office shall be 2 years and who may be reelected. If a vacancy occurs in either office, the advisory planning commission shall fill such vacancy for the unexpired term.

A majority of the members of the advisory planning commission constitutes a quorum for the transaction of the business of the commission. A majority vote of the quorum present shall be required to take action with respect to any matter.

(i) The agency shall establish and maintain an office within the region, and for this purpose the agency may rent or own property and equipment. Every plan, ordinance and other record of the agency which is of such nature as to constitute a public record under the law of either the State of California or the State of Nevada shall be opened to inspection and copying during regular office hours.

(j) Each authority charged under this compact or by the law of either state with the duty of appointing a member of the governing body of the agency shall by certified copy of its resolution or other action notify the Secretary of State of its own state of the action taken.

ARTICLE IV. PERSONNEL

(a) The governing body shall determine the qualification of, and it shall appoint and fix the salary of, the executive officer of the agency, and shall employ such other staff and legal counsel as may be necessary to execute the powers and functions provided for under this compact or in accordance with any intergovernmental contracts or agreements the agency may be responsible for administering.

(b) Agency personnel standards and regulations shall conform insofar as possible to the regulations and procedures of the civil service of the State of California or the State of Nevada, as may be determined by the governing body of the agency; and shall be regional and bistate in application and effect; provided that the governing body may, for administrative convenience and at its discretion, assign the administration of designated personnel arrangements to an agency of either state, and provided that administratively convenient adjustments be made in the standards and regulations governing personnel assigned under intergovernmental agreements.

(c) The agency may establish and maintain or participate in such additional programs of employee benefits as may be appropriate to afford employees of the agency terms and conditions of employment similar to those enjoyed by employees of California and Nevada generally.

ARTICLE V. PLANNING

(a) In preparing each of the plans required by this article and each amendment thereto, if any, subsequent to its adoption, the planning commission after due notice shall hold at least one public hearing which may be continued from time to time, and shall review the testimony and any written recommendations presented at such hearing before recommending the plan or amendment. The notice required by this subdivision shall be given at least 20 days prior to the public hearing by publication at least once in a newspaper or combination of newspapers whose circulation is general throughout the region and in each county a portion of whose territory lies within the region.

The planning commission shall then recommend such plan or amendment to the governing body for adoption by ordinance. The governing body may adopt, modify or reject the proposed plan or amendment, or may initiate and adopt a plan or amendment without referring it to the planning commission. If the governing body

initiates or substantially modifies a plan or amendment, it shall hold at least one public hearing thereon after due notice as required in this subdivision.

If a request is made for the amendment of the regional plan by:

(1) A political subdivision a part of whose territory would be affected by such amendment; or

(2) The owner or lessee of real property which would be affected by such amendment, the governing body shall complete its action on such amendment within 180 days after such request is accepted as complete according to standards which must be prescribed by ordinance of the agency.

(b) The agency shall develop, in cooperation with the States of California and Nevada, environmental threshold carrying capacities for the region. The agency should request the President's Council on Environmental Quality, the United States Forest Service and other appropriate agencies to assist in developing such environmental threshold carrying capacities. Within 18 months after the effective date of the amendments to this compact, the agency shall adopt environmental threshold carrying capacities for the region.

(c) Within 1 year after the adoption of the environmental threshold carrying capacities for the region, the agency shall amend the regional plan so that, at a minimum, the plan and all of its elements, as implemented through agency ordinances, rules and regulations, achieves and maintains the adopted environmental threshold carrying capacities. Each element of the plan shall contain implementation provisions and time schedules for such implementation by ordinance. The planning commission and governing body shall continuously review and maintain the regional plan. The regional plan shall consist of a diagram, or diagrams, and text, or texts setting forth the projects and proposals for implementation of the regional plan, a description of the needs and goals of the region and a statement of the policies, standards and elements of the regional plan.

The regional plan shall be a single enforceable plan and include all of the following correlated elements:

(1) A land use plan for the integrated arrangement and general location and extent of, and the criteria and standards for, the uses of land, water, air, space and other natural resources within the region, including but not limited to, an indication or allocation of maximum population densities and permitted uses.

(2) A transportation plan for the integrated development of a regional system of transportation, including but not limited to parkways, highways, transportation facilities, transit routes, waterways, navigation facilities, public transportation facilities, bicycle facilities, and appurtenant terminals and facilities for the movement of people and goods within the region. The goal of transportation planning shall be:

(A) To reduce dependency on the automobile by making more effective use of existing transportation modes and of public transit to

move people and goods within the region and

(B) To reduce to the extent feasible air pollution which is caused by motor vehicles.

Where increases in capacity are required, the agency shall give preference to providing such capacity through public transportation and public programs and projects related to transportation. The agency shall review and consider all existing transportation plans in preparing its regional transportation plan pursuant to this paragraph.

The plan shall provide for an appropriate transit system for the region.

The plan shall give consideration to:

(A) Completion of the Loop Road in the States of Nevada and California;

(B) Utilization of a light rail mass transit system in the South Shore area; and

(C) Utilization of a transit terminal in the Kingsbury Grade area.

Until the regional plan is revised, or a new transportation plan is adopted in accordance with this paragraph, the agency has no effective transportation plan.

(3) A conservation plan for the preservation, development, utilization, and management of the scenic and other natural resources within the basin, including but not limited to, soils, shoreline and submerged lands, scenic corridors along transportation routes, open spaces, recreational and historical facilities.

(4) A recreation plan for the development, utilization, and management of the recreational resources of the region, including but not limited to, wilderness and forested lands, parks and parkways, riding and hiking trails, beaches and playgrounds, marinas, areas for skiing and other recreational facilities.

(5) A public services and facilities plan for the general location, scale and provision of public services and facilities, which, by the nature of their function, size, extent and other characteristics are necessary or appropriate for inclusion in the regional plan.

In formulating and maintaining the regional plan, the planning commission and governing body shall take account of and shall seek to harmonize the needs of the region as a whole, the plans of the counties and cities within the region, the plans and planning activities of the state, federal and other public agencies and nongovernmental agencies and organizations which affect or are concerned with planning and development within the region.

(d) The regional plan shall provide for attaining and maintaining federal, state, or local air and water quality standards, whichever are strictest, in the respective portions of the region for which the standards are applicable.

The agency may, however, adopt air or water quality standards or control measures more stringent than the applicable state implementation plan or the applicable federal, state, or local standards for the region, if it finds that such additional standards or control measures are necessary to achieve the purposes of this

compact. Each element of the regional plan, where applicable, shall, by ordinance, identify the means and time schedule by which air and water quality standards will be attained.

(e) Except for the Regional Transportation Plan of the California Tahoe Regional Planning Agency, the regional plan, ordinances, rules and regulations adopted by the California Tahoe Regional Planning Agency in effect on July 1, 1980, shall be the regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency for that portion of the Tahoe region located in the State of California. Such plan, ordinance, rule or regulation may be amended or repealed by the governing body of the agency. The plans, ordinances, rules and regulations of the Tahoe Regional Planning Agency that do not conflict with, or are not addressed by, the California Tahoe Regional Planning Agency's plans, ordinances, rules and regulations referred to in this subdivision shall continue to be applicable unless amended or repealed by the governing body of the agency. No provision of the regional plan, ordinances, rules and regulations of the California Tahoe Regional Planning Agency referred to in this subdivision shall apply to that portion of the region within the State of Nevada, unless such provision is adopted for the Nevada portion of the region by the governing body of the agency.

(f) The regional plan, ordinances, rules and regulations of the Tahoe Regional Planning Agency apply to that portion of the region within the State of Nevada.

(g) The agency shall adopt ordinances prescribing specific written findings that the agency must make prior to approving any project in the region. These findings shall relate to environmental protection and shall insure that the project under review will not adversely affect implementation of the regional plan and will not cause the adopted environmental threshold carrying capacities of the region to be exceeded.

(h) The agency shall maintain the data, maps and other information developed in the course of formulating and administering the regional plan, in a form suitable to assure a consistent view of developmental trends and other relevant information for the availability of and use by other agencies of government and by private organizations and individuals concerned.

(i) Where necessary for the realization of the regional plan, the agency may engage in collaborative planning with local governmental jurisdictions located outside the region, but contiguous to its boundaries. In formulating and implementing the regional plan, the agency shall seek the cooperation and consider the recommendations of counties and cities and other agencies of local government, of state and federal agencies, of educational institutions and research organizations, whether public or private, and of civic groups and private persons.

ARTICLE VI. AGENCY'S POWERS

(a) The governing body shall adopt all necessary ordinances, rules, and regulations to effectuate the adopted regional plan. Except as otherwise provided in this compact, every such ordinance, rule or regulation shall establish a minimum standard applicable throughout the region. Any political subdivision or public agency may adopt and enforce an equal or higher requirement applicable to the same subject of regulation in its territory. The regulations of the agency shall contain standards including but not limited to the following: water purity and clarity; subdivision; zoning; tree removal; solid waste disposal; sewage disposal; land fills, excavations, cuts and grading; piers, harbors, breakwaters or channels and other shoreline developments; waste disposal in shoreline areas; waste disposal from boats; mobile-home parks; house relocation; outdoor advertising; flood plain protection; soil and sedimentation control; air pollution; and watershed protection. Whenever possible without diminishing the effectiveness of the regional plan, the ordinances, rules, regulations and policies shall be confined to matters which are general and regional in application, leaving to the jurisdiction of the respective states, counties and cities the enactment of specific and local ordinances, rules, regulations and policies which conform to the regional plan.

The agency shall prescribe by ordinance those activities which it has determined will not have substantial effect on the land, water, air, space or any other natural resources in the region and therefore will be exempt from its review and approval.

Every ordinance adopted by the agency shall be published at least once by title in a newspaper or combination of newspapers whose circulation is general throughout the region. Except an ordinance adopting or amending the regional plan, no ordinance shall become effective until 60 days after its adoption. Immediately after its adoption, a copy of each ordinance shall be transmitted to the governing body of each political subdivision having territory within the region.

(b) No project other than those to be reviewed and approved under the special provisions of subdivisions (d), (e), (f) and (g) may be developed in the region without obtaining the review and approval of the agency and no project may be approved unless it is found to comply with the regional plan and with the ordinances, rules and regulations enacted pursuant to subdivision (a) to effectuate that plan.

The agency may approve a project in the region only after making the written findings required by this subdivision or subdivision (g) of Article V. Such findings shall be based on substantial evidence in the record.

Before adoption by the agency of the ordinances required in subdivision (g) of Article V, the agency may approve a project in the

region only after making written findings on the basis of substantial evidence in the record that the project is consistent with the regional plan then in effect and with applicable plans, ordinances, regulations and standards of federal and state agencies relating to the protection, maintenance and enhancement of environmental quality in the region.

(c) The Legislatures of the States of California and Nevada find that in order to make effective the regional plan as revised by the agency, it is necessary to halt temporarily works of development in the region which might otherwise absorb the entire capability of the region for further development or direct it out of harmony with the ultimate plan. Subject to the limitation provided in this subdivision, from the effective date of the amendments to this compact until the regional plan is amended pursuant to subdivision (c) of Article V, or until May 1, 1983, whichever is earlier:

(1) Except as otherwise provided in this paragraph, no new subdivision, planned unit development, or condominium project may be approved unless a complete tentative map or plan has been approved before the effective date of the amendments to this compact by all agencies having jurisdiction. The subdivision of land owned by a general improvement district, which existed and owned the land before the effective date of the amendments to this compact, may be approved if subdivision of the land is necessary to avoid insolvency of the district.

(2) Except as provided in paragraph (3), no apartment building may be erected unless the required permits for such building have been secured from all agencies having jurisdiction, prior to the effective date of the amendments to this compact.

(3) During each of the calendar years 1980, 1981, and 1982 no city or county may issue building permits which authorize the construction of a greater number of new residential units within the region than were authorized within the region by building permits issued by that city or county during calendar year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ of that number may be issued by each such city or county. For purposes of this paragraph a "residential unit" means either a single family residence or an individual residential unit within a larger building, such as an apartment building, a duplex or a condominium.

The Legislatures find the respective numbers of residential units authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	252
2. Placer County	278
3. Carson City	0
4. Douglas County	339
5. Washoe County	739

(4) During each of the calendar years 1980, 1981 and 1982, no city or county may issue building permits which authorize construction of a greater square footage of new commercial buildings within the region than were authorized within the region by building permits for commercial purposes issued by that city or county during the calendar year 1978. For the period of January through April, 1983 building permits authorizing the construction of no more than ⅓ the amount of that square footage may be issued by each such city or county.

The Legislatures find the respective square footages of commercial buildings authorized within the region during calendar year 1978 to be as follows:

1. City of South Lake Tahoe and El Dorado County (combined)	64,324
2. Placer County	23,000
3. Carson City	0
4. Douglas County	57,354
5. Washoe County	50,600

(5) No structure may be erected to house gaming under a nonrestricted license.

(6) No facility for the treatment of sewage may be constructed or enlarged except:

(A) To comply, as ordered by the appropriate state agency for the control of water pollution, with existing limitations of effluence under the Clean Water Act, 33 U.S.C. S1251 et seq., and the applicable state law for control of water pollution; or

(B) To accommodate development which is not prohibited or limited by this subdivision; or

(C) In the case of Douglas County Sewer District #1, to modify or otherwise alter sewage treatment facilities existing on the effective date of the amendments to this compact so that such facilities will be able to treat the total volume of effluence for which they were originally designed which is 3.0 mgd. Such modification or alteration is not a "project"; is not subject to the requirements of Article VII; and does not require a permit from the agency. Before commencing such modification or alternative, however, the district shall submit to the agency its report identifying any significant soil erosion problems which may be caused by such modifications or alterations and the measures which the district proposes to take to mitigate or avoid such problems.

The moratorium imposed by this subdivision does not apply to work done pursuant to a right vested before the effective date of the amendments to this compact. Notwithstanding the expiration date of the moratorium imposed by this subdivision, no new highway may be built or existing highway widened to accommodate additional continuous lanes for automobiles until the regional transportation plan is revised and adopted.

The moratorium imposed by this subdivision does not apply to the construction of any parking garage which has been approved by the agency prior to May 4, 1979, whether that approval was affirmative or by default. The provisions of this paragraph are not an expression of legislative intent that any such parking garage, the approval of which is the subject of litigation which was pending on the effective date of the amendments to this compact, should, or should not, be constructed. The provisions of this paragraph are intended solely to permit construction of such a parking garage if judgment sustaining the agency's approval to construct that parking garage has become final and no appeal is pending or may lawfully be taken to a higher court.

(d) Subject to the final order of any court of competent jurisdiction entered in litigation contesting the validity of an approval by the Tahoe Regional Planning Agency, whether that approval was affirmative or by default, if that litigation was pending on May 4, 1979, the agency and the States of California and Nevada shall recognize as a permitted and conforming use:

(1) Every structure housing gaming under a nonrestricted license which existed as a licensed gaming establishment on May 4, 1979, or whose construction was approved by the Tahoe Regional Planning Agency affirmatively or deemed approved before that date. The construction or use of any structure to house gaming under a nonrestricted license not so existing or approved, or the enlargement in cubic volume of any such existing or approved structure is prohibited.

(2) Every other nonrestricted gaming establishment whose use was seasonal and whose license was issued before May 4, 1979, for the same season and for the number and type of games and slot machines on which taxes or fees were paid in the calendar year 1978.

(3) Gaming conducted pursuant to a restricted gaming license issued before May 4, 1979, to the extent permitted by that license on that date. The area within any structure housing gaming under a nonrestricted license which may be open to public use (as distinct from that devoted to the private use of guests and exclusive of any parking area) is limited to the area existing or approved for public use on May 4, 1979. Within these limits, any external modification of the structure which requires a permit from a local government also requires approval from the agency. The agency shall not permit restaurants, convention facilities, showrooms or other public areas to be constructed elsewhere in the region outside the structure in order to replace areas existing or approved for public use on May 4, 1979.

(e) Any structure housing licensed gaming may be rebuilt or replaced to a size not to exceed the cubic volume, height and land coverage existing or approved on May 4, 1979, without the review or approval of the agency or any planning or regulatory authority of the State of Nevada whose review or approval would be required for a new structure.

(f) The following provisions apply to any internal or external modification, remodeling, change in use, or repair of a structure housing gaming under a nonrestricted license which is not prohibited by subdivision (d):

(1) The agency's review of an external modification of the structure which requires a permit from a local government is limited to determining whether the external modification will do any of the following:

(A) Enlarge the cubic volume of the structure;

(B) Increase the total square footage of area open to or approved for public use on May 4, 1979;

(C) Convert an area devoted to the private use of guests to an area open to public use;

(D) Increase the public area open to public use which is used for gaming beyond the limits contained in paragraph (3); and

(E) Conflict with or be subject to the provisions of any of the agency's ordinances that are generally applicable throughout the region.

The agency shall make this determination within 60 days after the proposal is delivered to the agency in compliance with the agency's rules or regulations governing such delivery unless the applicant has agreed to an extension of this time limit. If an external modification is determined to have any of the effects enumerated in subparagraphs (A) through (C), it is prohibited. If an external modification is determined to have any of the effects enumerated in subparagraphs (D) or (E), it is subject to the applicable provisions of this compact. If an external modification is determined to have no such effect, it is not subject to the provisions of this compact.

(2) Except as provided in paragraph (3), internal modification, remodeling, change in use or repair of a structure housing gaming under a nonrestricted license is not a project and does not require the review or approval of the agency.

(3) Internal modification, remodeling, change in use or repair of areas open to the public use within a structure housing gaming under a nonrestricted license which alone or in combination with any other such modification, remodeling, change in use or repair will increase the total portion of those areas which are used for gaming by more than the product of the total base area, as defined below, in square feet existing on or approved before August 4, 1980, multiplied by 15 percent constitutes a project and is subject to all of the provisions of this compact relating to projects. For purposes of this paragraph and the determination required by subdivision (g), base area means all of the area within a structure housing gaming under a nonrestricted

license which may be open to public use, whether or not gaming is actually conducted or carried on in that area, except retail stores, convention centers and meeting rooms, administrative offices, kitchens, maintenance and storage areas, rest rooms, engineering and mechanical rooms, accounting rooms and counting rooms.

(g) In order to administer and enforce the provisions of subdivisions (d), (e) and (f), the State of Nevada, through its appropriate planning or regulatory agency, shall require the owner or licensee of a structure housing gaming under a nonrestricted license to provide:

(1) Documents containing sufficient information for the Nevada agency to establish the following relative to the structure:

(A) The location of its external walls;

(B) Its total cubic volume;

(C) Within its external walls, the area in square feet open or approved for public use and the area in square feet devoted to or approved for the private use of guests on May 4, 1979;

(D) The amount of surface area of land under the structure; and

(E) The base area as defined in paragraph (3) of subdivision (f) in square feet existing on or approved before August 4, 1980.

(2) An informational report whenever any internal modification, remodeling, change in use, or repair will increase the total portion of the areas open to public use which is used for gaming.

The Nevada agency shall transmit this information to the Tahoe Regional Planning Agency.

(h) Gaming conducted pursuant to a restricted gaming license is exempt from review by the agency if it is incidental to the primary use of the premises.

(i) The provisions of subdivisions (d) and (e) are intended only to limit gaming and related activities as conducted within a gaming establishment, or construction designed to permit the enlargement of such activities, and not to limit any other use of property zoned for commercial use or the accommodation of tourists, as approved by the agency.

(j) Legal actions arising out of or alleging a violation of the provisions of this compact, of the regional plan or of an ordinance or regulation of the agency or of a permit or a condition of a permit issued by the agency are governed by the following provisions:

(1) This subdivision applies to:

(A) Actions arising out of activities directly undertaken by the agency.

(B) Actions arising out of the issuance to a person of a lease, permit, license or other entitlement for use by the agency.

(C) Actions arising out of any other act or failure to act by any person or public agency.

Such legal actions may be filed and the provisions of this subdivision apply equally in the appropriate courts of California and Nevada and of the United States.

(2) Venue lies:

(A) If a civil or criminal action challenges an activity by the agency or any person which is undertaken or to be undertaken upon a parcel of real property, in the state or federal judicial district where the real property is situated.

(B) If an action challenges an activity which does not involve a specific parcel of land (such as an action challenging an ordinance of the agency), in any state or federal court having jurisdiction within the region.

(3) Any aggrieved person may file an action in an appropriate court of the State of California or Nevada or of the United States alleging noncompliance with the provisions of this compact or with an ordinance or regulation of the agency. In the case of governmental agencies, "aggrieved person" means the Tahoe Regional Planning Agency or any state, federal or local agency. In the case of any person other than a governmental agency who challenges an action of the Tahoe Regional Planning Agency, "aggrieved person" means any person who has appeared, either in person, through an authorized representative, or in writing, before the agency at an appropriate administrative hearing to register objection to the action which is being challenged, or who had good cause for not making such an appearance.

(4) A legal action arising out of the adoption or amendment of the regional plan or of any ordinance or regulation of the agency, or out of the granting or denial of any permit, shall be commenced within 60 days after final action by the agency. All other legal actions shall be commenced within 65 days after discovery of the cause of action.

(5) In any legal action filed pursuant to this subdivision which challenges an adjudicatory act or decision of the agency to approve or disapprove a project, the scope of judicial inquiry shall extend only to whether there was prejudicial abuse of discretion. Prejudicial abuse of discretion is established if the agency has not proceeded in a manner required by law or if the act or decision of the agency was not supported by substantial evidence in light of the whole record. In making such a determination the court shall not exercise its independent judgment on evidence but shall only determine whether the act or decision was supported by substantial evidence in light of the whole record. In any legal action filed pursuant to this subdivision which challenges a legislative act or decision of the agency (such as the adoption of the regional plan and the enactment of implementing ordinances), the scope of the judicial inquiry shall extend only to the questions of whether the act or decision has been arbitrary, capricious or lacking substantial evidentiary support or whether the agency has failed to proceed in a manner required by law.

(6) The provisions of this subdivision do not apply to any legal proceeding pending on the date when this subdivision becomes effective. Any such legal proceeding shall be conducted and concluded under the provisions of law which were applicable prior to the effective date of this subdivision.

(7) The security required for the issuance of a temporary restraining order or preliminary injunction based upon an alleged violation of this compact or any ordinance, plan, rule or regulation adopted pursuant thereto is governed by the rule or statute applicable to the court in which the action is brought unless the action is brought by a public agency or political subdivision to enforce its own rules, regulations and ordinances in which case no security shall be required.

(k) The agency shall monitor activities in the region and may bring enforcement actions in the region to ensure compliance with the regional plan and adopted ordinances, rules, regulations and policies. If it is found that the regional plan, or ordinances, rules, regulations and policies are not being enforced by a local jurisdiction, the agency may bring action in a court of competent jurisdiction to ensure compliance.

(*l*) Any person who violates any provision of this compact or of any ordinance or regulation of the agency or of any condition of approval imposed by the agency is subject to a civil penalty not to exceed five thousand dollars ($5,000). Any such person is subject to an additional civil penalty not to exceed five thousand dollars ($5,000) per day, for each day on which such a violation persists. In imposing the penalties authorized by this subdivision, the court shall consider the nature of the violation and shall impose a greater penalty if it was willful or resulted from gross negligence than if it resulted from inadvertence or simple negligence.

(m) The agency is hereby empowered to initiate, negotiate and participate in contracts and agreements among the local governmental authorities of the region, or any other intergovernmental contracts or agreements authorized by state or federal law.

(n) Each intergovernmental contract or agreement shall provide for its own funding and staffing, but this shall not preclude financial contributions from the local authorities concerned or from supplementary sources.

(o) Every record of the agency, whether public or not, shall be open for examination to the Legislature and Controller of the State of California and the Legislative Auditor of the State of Nevada.

(p) Approval by the agency of any project expires 3 years after the date of final action by the agency or the effective date of the amendments to this compact, whichever is later, unless construction is begun within that time and diligently pursued thereafter, or the use or activity has commenced. In computing the 3-year period any period of time during which the project is the subject of a legal action which delays or renders impossible the diligent pursuit of that project shall not be counted. Any license, permit or certificate issued by the agency which has an expiration date shall be extended by that period of time during which the project is the subject of such legal action as provided in this subdivision.

(q) The governing body shall maintain a current list of real

property known to be available for exchange with the United States or with other owners of real property in order to facilitate exchanges of real property by owners of real property in the region.

ARTICLE VII. ENVIRONMENTAL IMPACT STATEMENTS

(a) The Tahoe Regional Planning Agency when acting upon matters that have a significant effect on the environment shall:

(1) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

(2) Prepare and consider a detailed environmental impact statement before deciding to approve or carry out any project. The detailed environmental impact statement shall include the following:

(A) The significant environmental impacts of the proposed project;

(B) Any significant adverse environmental effects which cannot be avoided should the project be implemented;

(C) Alternatives to the proposed project;

(D) Mitigation measures which must be implemented to assure meeting standards of the region;

(E) The relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity;

(F) Any significant irreversible and irretrievable commitments of resources which would be involved in the proposed project should it be implemented; and

(G) The growth-inducing impact of the proposed project;

(3) Study, develop and describe appropriate alternatives to recommended courses of action for any project which involves unresolved conflicts concerning alternative uses of available resources;

(4) Make available to states, counties, municipalities, institutions and individuals, advice and information useful in restoring, maintaining and enhancing the quality of the region's environment; and

(5) Initiate and utilize ecological information in the planning and development of resource-oriented projects.

(b) Prior to completing an environmental impact statement, the agency shall consult with and obtain the comments of any federal, state or local agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, state and local agencies which are authorized to develop and enforce environmental standards shall be made available to the public and shall accompany the project through the review processes. The public shall be consulted during the environmental impact

statement process and views shall be solicited during a public comment period not to be less than 60 days.

(c) Any environmental impact statement required pursuant to this article need not repeat in its entirety any information or data which is relevant to such a statement and is a matter of public record or is generally available to the public, such as information contained in an environmental impact report prepared pursuant to the California Environmental Quality Act or a federal environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969. However, such information or data shall be briefly described in the environmental impact statement and its relationship to the environmental impact statement shall be indicated.

In addition, any person may submit information relative to a proposed project which may be included, in whole or in part, in any environmental impact statement required by this article.

(d) In addition to the written findings specified by agency ordinance to implement the regional plan, the agency shall make either of the following written findings before approving a project for which an environmental impact statement was prepared:

(1) Changes or alterations have been required in or incorporated into such project which avoid or reduce the significant adverse environmental effects to a less than significant level; or

(2) Specific considerations, such as economic, social or technical, make infeasible the mitigation measures or project alternatives discussed in the environmental impact statement on the project.

A separate written finding shall be made for each significant effect identified in the environmental impact statement on the project. All written findings must be supported by substantial evidence in the record.

(e) The agency may charge and collect a reasonable fee from any person proposing a project subject to the provisions of this compact in order to recover the estimated costs incurred by the agency in preparing an environmental impact statement under this article.

(f) The agency shall adopt by ordinance a list of classes of projects which the agency has determined will not have a significant effect on the environment and therefore will be exempt from the requirement for the preparation of an environmental impact statement under this article. Prior to adopting the list, the agency shall make a written finding supported by substantial evidence in the record that each class of projects will not have a significant effect on the environment.

ARTICLE VIII. FINANCES

(a) On or before September 30 of each calendar year the agency shall establish the amount of money necessary to support its activities for the next succeeding fiscal year commencing July 1 of the following year. The agency shall apportion seventy-five thousand

dollars ($75,000) of this amount among the counties within the region on the same ratio to the total sum required as the full cash valuation of taxable property within the region in each county bears to the total full cash valuation of taxable property within the region. In addition, each county within the region in California shall pay eighteen thousand seven hundred fifty dollars ($18,750) to the agency and each county within the region in Nevada, including Carson City, shall pay twelve thousand five hundred dollars ($12,500) to the agency, from any funds available therefor. The State of California and the State of Nevada may pay to the agency by July 1, of each year any additional sums necessary to support the operations of the agency pursuant to this compact. If additional funds are required, the agency shall make a request for the funds to the States of California and Nevada. Requests for state funds must be apportioned two-thirds from California and one-third from Nevada. Money appropriated shall be paid within 30 days.

(b) The agency may fix and collect reasonable fees for any services rendered by it.

(c) The agency shall submit an itemized budget to the states for review with any request for state funds, shall be strictly accountable to any county in the region and the states for all funds paid by them to the agency and shall be strictly accountable to all participating bodies for all receipts and disbursement.

(d) The agency is authorized to receive gifts, donations, subventions, grants, and other financial aids and funds; but the agency may not own land except as provided in subdivision (i) of Article III.

(e) The agency shall not obligate itself beyond the moneys due under this article for its support from the several counties and the states for the current fiscal year, plus any moneys on hand or irrevocably pledged to its support from other sources. No obligation contracted by the agency shall bind either of the party states or any political subdivision thereof.

ARTICLE IX. TRANSPORTATION DISTRICT

(a) The Tahoe transportation district is hereby established as a special purpose district. The boundaries of the district are coterminous with those of the region.

(b) The business of the district shall be managed by a board of directors consisting of:

(1) One member of the county board of supervisors of each of the counties of El Dorado and Placer;

(2) One member of the city council of the City of South Lake Tahoe;

(3) One member each of the board of county commissioners of Douglas County and of Washoe County;

(4) One member of the board of supervisors of Carson City.

(c) The vote of at least four of the directors must agree to take

action. If at least four votes in favor of an action are not cast, an action of rejections shall be deemed to have been taken.

(d) The Tahoe transportation district may by resolution establish procedures for the adoption of its budgets, the appropriation of its money and the carrying on of its other financial activities. These procedures must conform insofar as is practicable to the procedures for financial administration of the State of California or the State of Nevada or one or more of the local governments in the region.

(e) The Tahoe transportation district may in accordance with the adopted transportation plan:

(1) Own and operate a public transportation system to the exclusion of all other publicly owned transportation systems in the region.

(2) Acquire upon mutually agreeable terms any public transportation system or facility owned by a county, city or special purpose district or any privately owned transportation system or facility within the region.

(3) Hire the employees of existing public transportation systems that are acquired by the district without loss of benefits to the employees, bargain collectively with employee organizations, and extend pension and other collateral benefits to employees.

(4) Contract with private companies to provide supplementary transportation or provide any of the services needed in operating a system of transportation for the region.

(5) Fix the rates and charges for transit services provided pursuant to this subdivision.

(6) Issue revenue bonds and other evidence of indebtedness and make other financial arrangements appropriate for developing and operating a public transportation system.

(7) By resolution, determine and propose for adoption a tax for the purpose of obtaining services of the district. The tax proposed must be general and of uniform operation throughout the region, and may not be graduated in any way, except for a sales and use tax which, if approved by the voters, may be administered through the States of California and Nevada respectively in accordance with the laws that apply within their respective jurisdictions. The district is prohibited from imposing any other tax measured by gross or net receipts on business, an ad valorem tax, a tax or charge that is assessed against people or vehicles as they enter or leave the region, and any tax, direct or indirect, on gaming tables and devices. Any such proposition must be submitted to the voters of the district and shall become effective upon approval of a majority of the voters voting on the proposition. The revenues from any such tax must be used for the services for which it was imposed, and for no other purpose.

(8) Provide service from inside the region to convenient airport, railroad and interstate bus terminals without regard to the boundaries of the region.

(f) The Legislatures of the States of California and Nevada may, by substantively identical enactments, amend this article.

ARTICLE X. MISCELLANEOUS

(a) It is intended that the provisions of this compact shall be reasonably and liberally construed to effectuate the purposes thereof. Except as provided in subdivision (c), the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining state and in full force and effect as to the state affected as to all severable matters.

(b) The agency shall have such additional powers and duties as may hereafter be delegated or imposed upon it from time to time by the action of the Legislature of either state concurred in by the Legislature of the other.

(c) A state party to this compact may withdraw therefrom by enacting a statute repealing the compact. Notice of withdrawal shall be communicated officially and in writing to the Governor of the other state and to the agency administrators. This provision is not severable, and if it is held to be unconstitutional or invalid, no other provision of this compact shall be binding upon the State of Nevada or the State of California.

(d) No provision of this compact shall have any effect upon the allocation, distribution or storage of interstate waters or upon any appropriative water right.

CHAPTER 821

An act to amend Section 742 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 742 of the Revenue and Taxation Code is amended to read:

742. Upon receipt of a timely petition for reassessment, the board shall set a time and place within the state for hearing on the petition. Notice thereof shall be mailed to the assessee at its address as shown in the records of the board, not less than 10 working days in advance of the date of the hearing.

CHAPTER 822

An act to add Chapter 4.5 (commencing with Section 9380) to Part 1 of Division 8.5 of the Welfare and Institutions Code, relating to nutrition, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Chapter 4.5 (commencing with Section 9380) is added to Part 1 of Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. HOME-DELIVERED MEALS ACT OF 1988

9380. This chapter shall be known and may be cited as the Home-Delivered Meals Act of 1988.

9381. (a) The Legislature finds and declares that many elderly persons do not eat adequately because: (1) they cannot afford to do so; (2) they lack the ability to select and prepare nourishing and well-balanced meals; (3) they have limited mobility which may impair their capacity to shop and cook for themselves; and (4) they have feelings of rejection and loneliness which lessen the incentive necessary to prepare and eat a meal alone. These problems, and other physiological, psychological, social, and economic changes that occur with aging, result in a pattern of living which causes malnutrition and further physical and mental deterioration. Furthermore, these problems often result in premature and unnecessary institutionalization.

(b) Accordingly, the Legislature declares that the Home-Delivered Meals Act of 1988 is enacted to provide for the best possible physical and mental health of California's elderly and, whenever possible, to maintain the elderly in their home environment with maximum independence and dignity.

This act provides for increasing the availability of home-delivered meal services to the elderly in order to begin to meet the vast unmet need of home-bound seniors throughout California.

9382. (a) The department shall allocate any new funds to area agencies on aging based upon the existing intrastate funding formula, but without regard to subdivision (b) of Section 9315 of the Welfare and Institutions Code.

(b) In consultation with area agencies on aging and nutrition providers, the department shall develop criteria for identifying unmet need. The department shall standardize the definition of "unmet need" for home-delivered meals, develop uniform procedures for documenting unmet need, and require all area

agencies on aging and all nutrition programs to report at least annually the unmet need in their planning and service areas according to the department's standard definition and uniform documentation procedures. The department shall make this information available to the Legislature at least annually, or more often upon request.

(c) Funds may be expended by area agencies on aging for any of the following purposes:

(1) To serve seniors on waiting lists.

(2) To increase the number of days per week that meals are provided under the Home-Delivered Meals Program from five to seven.

(3) To provide modified diets specific to the needs of individuals being served by the Home-Delivered Meals Program.

(4) To establish an active outreach program to ensure that California's elderly are aware of the availability of home-delivered meals services.

(5) For capital outlay to expand the physical capacity of local needs programs to serve unmet need.

(6) To fund transportation costs related to the delivery of home-delivered meals.

(7) To otherwise deal with the unmet home-delivered nutrition needs identified by the area agency on aging in accordance with the criteria developed by the department pursuant to this subdivision.

(d) The department shall encourage area agencies on aging to include in the home-delivered meals programs alternative service models designed to reduce the social isolation of economically and nutritionally disadvantaged elderly persons living in residential hotels.

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

This act uses state funding sources to augment federal funds which can be used to address the substantial unmet hunger and nutritional needs of California's elderly, and in order to solve the problem of unmet needs at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 823

An act to add Section 17206.1 to the Business and Professions Code, and to amend Sections 1761 and 1780 of, and to add Section 3345 to, the Civil Code, relating to senior citizens and disabled persons.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 17206.1 is added to the Business and Professions Code, to read:

17206.1. (a) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following:

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; muscoloskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in

addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

SEC. 2. Section 1761 of the Civil Code is amended to read:

1761. As used in this title:

(a) "Goods" means tangible chattels bought or leased for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real property as to become a part of such real property, whether or not severable therefrom.

(b) "Services" means work, labor, and services for other than a commercial or business use, including services furnished in connection with the sale or repair of goods.

(c) "Person" means an individual, partnership, corporation, association, or other group, however organized.

(d) "Consumer" means an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes.

(e) "Transaction" means an agreement between a consumer and

any other person, whether or not the agreement is a contract enforceable by action, and includes the making of, and the performance pursuant to, that agreement.

(f) "Senior citizen" means a person who is 65 years of age or older.

(g) "Disabled person" means any person who has a physical or mental impairment which substantially limits one or more major life activities.

(1) As used in this subdivision, "physical or mental impairment" means any of the following:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; muscoloskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine.

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term " physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

SEC. 3. Section 1780 of the Civil Code is amended to read:

1780. (a) Any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 may bring an action against such person to recover or obtain any of the following:

(1) Actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars ($1,000).

(2) An order enjoining such methods, acts, or practices.

(3) Restitution of property.

(4) Punitive damages.

(5) Any other relief which the court deems proper.

(b) Any consumer who is a senior citizen or a disabled person, as defined in subdivisions (f) and (g) of Section 1761, as part of an action under subdivision (a), may seek and be awarded, in addition to the remedies specified therein, up to five thousand dollars ($5,000) where the trier of fact (1) finds that the consumer has suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct, (2) makes an affirmative finding in regard to one or more of the factors set forth in subdivision (b) of Section 3345, and (3) finds that an additional award is appropriate. Judgment in a class action by senior citizens or disabled persons under Section 1781 may award each class member such an additional award where the trier of fact has made the foregoing findings.

(c) An action under subdivision (a) or (b) may be commenced in the county in which the person against whom it is brought resides, has his or her principal place of business, or is doing business, or in the county where the transaction or any substantial portion thereof occurred.

If within any such county there is a municipal or justice court, having jurisdiction of the subject matter, established in the city and county or judicial district in which the person against whom the action is brought resides, has his or her principal place of business, or is doing business, or in which the transaction or any substantial portion thereof occurred, then such court is the proper court for the trial of such action. Otherwise, any municipal or justice court in such county having jurisdiction of the subject matter is the proper court for the trial thereof.

In any action subject to this section, concurrently with the filing of the complaint, the plaintiff shall file an affidavit stating facts showing that the action has been commenced in a county or judicial district described in this section as a proper place for the trial of the action. If a plaintiff fails to file the affidavit required by this section, the court shall, upon its own motion or upon motion of any party, dismiss any such action without prejudice.

(d) The court shall award court costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this section. Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith.

SEC. 4. Section 3345 is added to the Civil Code, to read:

3345. (a) This section shall apply only in actions brought by, on behalf of, or for the benefit of senior citizens or disabled persons, as those terms are defined in subdivisions (f) and (g) of Section 1761, to redress unfair or deceptive acts or practices or unfair methods of competition.

(b) Whenever a trier of fact is authorized by a statute to impose either a fine, or a civil penalty or other penalty, or any other remedy the purpose or effect of which is to punish or deter, and the amount of the fine, penalty, or other remedy is subject to the trier of fact's discretion, the trier of fact shall consider all of the following factors, in addition to other appropriate factors, in determining the amount of fine, civil penalty or other penalty, or other remedy to impose. Whenever the trier of fact makes an affirmative finding in regard to one or more of the following factors, it may impose a fine, civil penalty or other penalty, or other remedy in an amount up to three times greater than authorized by the statute, or, where the statute does not authorize a specific amount, up to three times greater than the amount the trier of fact would impose in the absence of that affirmative finding:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

CHAPTER 824

An act to add Chapter 5.4 (commencing with Section 41980) to Part 24 of the Education Code, relating to education.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Chapter 5.4 (commencing with Section 41980) is added to Part 24 of the Education Code, to read:

CHAPTER 5.4. DESIGNATION OF JOINT POWERS ENTITIES AS SINGLE SCHOOL DISTRICTS

41980. Any separate joint powers entity formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code that has as its sole function the provision of school transportation services may, subject to prior approval by the Superintendent of Public Instruction, be designated a single school district for purposes of receiving state apportionments or allowances in support of those services or programs. Those school transportation apportionments or allowances shall be allocated to a separate joint powers entity under this section in any fiscal year only to the extent that the governing board of the school district or districts that would otherwise receive those state apportionments or allowances expressly approves that allocation under a resolution adopted on or before June 30 preceding that fiscal year.

41981. For purposes of this chapter, and notwithstanding the provisions of Section 6505.5 of the Government Code, the fiscal officer of the joint powers entity shall be the county superintendent of schools. If the joint powers entity is situated partly within two or

more counties, in terms of its participating school districts, the fiscal officer shall be the county superintendent of schools of the county in which the greatest area of the joint powers entity lies.

41982. The joint powers entity shall be subject to the same budget, expenditure, appropriation, accounting, auditing, and program requirements as school districts and county superintendents of schools generally with respect to school transportation programs.

41983. The Superintendent of Public Instruction may adopt regulations for the implementation of this chapter, including, but not limited to, standards and requirements relating to applications, approvals, reports, apportionments, and allowances, and changes in membership of the joint powers entity.

CHAPTER 825

An act to amend Sections 1337.2, 1337.3, 1337.4, and 1337.8 of the Health and Safety Code, relating to health.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 1337.2 of the Health and Safety Code is amended to read:

1337.2. (a) An applicant for certification as a certified nurse assistant shall comply with each of the following:

(1) Be at least 16 years of age.

(2) Have successfully completed a training program approved by the department, which includes an examination to test the applicant's knowledge and skills related to basic patient care services.

(3) Not be subject to denial of certification under this article.

(4) Pay the application fee established by the department pursuant to this article.

(b) The state department may establish procedures for issuing certificates which recognize certification programs in other states and countries.

(c) Upon written application and receipt of the required application fee, the state department may issue a certificate to any applicant who possesses a valid state license as either a licensed vocational nurse or a registered nurse issued by any other state or foreign country, and who, in the opinion of the state department, has the qualifications specified in this article.

(d) Upon written application, receipt of the required application fee, and documentation of passing an approved examination administered by an approved certification training program, the

state department may issue a certificate to any applicant who has completed the fundamentals of nursing courses in a school for registered nurses, approved by the Board of Registered Nursing, or in a school for licensed vocational nurses, approved by the Board of Vocational Nurse and Psychiatric Technician Examiners, which are substantially equivalent to the certification training program specified in this article.

(e) Notwithstanding any other provision of this article, any person holding a nurse assistant certificate issued by the state department prior to the enactment of this article, shall be issued a certificate under this article if the holder meets all of the following requirements:

(1) Submits an application on a form provided by the state department.

(2) Has not committed acts or crimes constituting grounds for denial of certification under this article.

(3) Pays the renewal fee established by the state department pursuant to this article.

(f) Certified nurse assistants, renewing according to subdivision (e), whose year of birth was in an odd-numbered year, shall submit an application for renewal on or before their date of birth during calendar year 1989, and those whose year of birth was in an even-numbered year shall submit an application for renewal on or before their date of birth during calendar year of 1990.

(g) Every person certified under this article may be known as a "certified nurse assistant" and may place the letters CNA after his or her name.

(h) Any person holding a nurse assistant certificate issued by the state department prior to January 1, 1988, may continue to hold himself or herself out as a certified nurse assistant until January 1, 1991. Thereafter, it shall be unlawful for any person not certified under this article to hold himself or herself out to be a certified nurse assistant. Any person willfully making any false representation as being a certified nurse assistant is guilty of a misdemeanor.

(i) Any person who violates this article is guilty of a misdemeanor and, upon a conviction thereof, shall be punished by imprisonment in the county jail for not more than 180 days, or by a fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 2. Section 1337.3 of the Health and Safety Code is amended to read:

1337.3. (a) The state department shall prepare and maintain a list of approved training programs for nurse assistant certification. The list shall include training programs conducted by skilled nursing or intermediate care facilities, as well as local agencies and education programs. Clinical portions of the training programs may be obtained as on-the-job training, supervised by a qualified director of staff development or licensed nurse.

(b) It shall be the duty of the state department to inspect a

representative sample of training programs. If the state department determines that any training program is not complying with regulations, notice thereof in writing shall be immediately given to the program. If the program has not been brought into compliance within a reasonable time, the program may be removed from the approved list and notice thereof in writing given to it. Programs removed under this article shall be afforded an opportunity to request reinstatement of program approval at any time.

(c) Notwithstanding provisions of Section 1337.1, the approved training program shall consist of at least the following:

(1) A 16-hour orientation program to be given to newly employed nurse assistants, eight hours of which shall be given prior to providing direct patient care.

(2) A certification training program consisting of at least 50 classroom hours of training on basic nursing skills, patient safety and rights, and the social and psychological problems of patients, as well as at least 100 hours supervised and on-the-job training clinical practice. The 100 hours may consist of normal employment as a nurse assistant under the supervision of either the director of staff development or a licensed nurse. The 50 classroom hours of training may be conducted within a skilled nursing or intermediate care facility, or in an educational institution.

(d) The state department, in consultation with the State Department of Education and other appropriate organizations, shall develop criteria for approving training programs, which includes program content for orientation, training, in-service and the examination for testing knowledge and skills related to basic patient care services and shall develop a plan that identifies and encourages career ladder opportunities for certified nurse assistants. This group shall also recommend, and the department shall promulgate, regulation changes necessary to provide for patient care when facilities utilize noncertified nurse assistants who are performing direct patient care. The requirements of this subdivision shall be established by January 1, 1989.

(e) This article shall not apply to a program conducted by any church or denomination for the purpose of training the adherents of the church or denomination in the care of the sick in accordance with its religious tenets.

SEC. 3. Section 1337.4 of the Health and Safety Code is amended to read:

1337.4. Every skilled nursing or intermediate care facility shall designate a licensed nurse as a director of staff development who shall be responsible for the management of the approved training program.

SEC. 4. Section 1337.8 of the Health and Safety Code is amended to read:

1337.8. (a) Every certified nurse assistant may be disciplined as provided in this article.

(b) The state department may discipline the holder of any

certificate, whose default has been entered or who has been found by the state department to be guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing the holder's certificate on probation.

(3) Suspending the right to practice as a certified nurse assistant for a period not exceeding one year.

(4) Revoking the certificate.

(c) If a certificate is suspended, the holder shall not be entitled to practice as a certified nurse assistant during the term of suspension, and shall return his or her certificate to the state department.

Upon the expiration of the term of suspension, he or she shall be reinstated by the state department and shall be entitled to resume practice unless it is established to the satisfaction of the state department that the person has practiced as a certified nurse assistant in California during the term of suspension. In this event, the state department shall revoke the person's certificate.

(d) The state department may deny, suspend, or revoke a certificate issued under this article for any of the following:

(1) Unprofessional conduct, which includes incompetence or gross negligence in carrying out usual nursing functions.

(2) Procuring a certified nurse assistant certificate by fraud or misrepresentation, or mistake.

(3) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of, this article.

(4) Making or giving any false statement or information in conjunction with the application for issuance of a certified nurse assistant certificate.

(5) Conviction of a crime substantially related to the qualifications, functions, and duties of a certified nurse assistant, in which event the record of the conviction shall be conclusive evidence thereof.

(6) Impersonating any applicant, or acting as proxy for an applicant, in any examination required under this article for the issuance of a certificate.

(7) Impersonating another certified nurse assistant, a licensed vocational nurse, or a registered nurse, or permitting or allowing another person to use a certificate for the purpose of nursing the sick or afflicted.

(8) Aiding or assisting, or agreeing to aid or assist, any person or persons, whether a licensed physician or not, in the performance of, or arranging for, a violation of Article 12 (commencing with Section 2220) of Chapter 5.

(e) In addition to other acts constituting unprofessional conduct within the meaning of this article, it is unprofessional conduct for a person certified under this article to do any of the following:

(1) Conviction for, or use of, any narcotic drug, as defined in Division 10 (commencing with Section 11000), or any dangerous

drug, as defined in Article 7 (commencing with Section 4211) of Chapter 9, or alcoholic beverages, to an extent or in a manner dangerous or injurious to the certified nurse assistant, or any other person, or the public, to the extent that this use impairs the ability to conduct, with safety to the public, the practice authorized by a certificate.

(2) Abuse, whether verbal, physical, or mental, of a patient in a health care facility.

(f) A plea or verdict of guilty, or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions, and duties of a certified nurse assistant shall be deemed a conviction within the meaning of this article. The state department may order the certificate suspended or revoked or may decline to issue a certificate when the time for appeal has elapsed, or the judgment or conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(g) The state department shall notify the certificateholder of his or her right to an appeal of the suspension or revocation of the certificate pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 826

An act to amend Section 56854 of, to repeal Section 56845 of, and to repeal and add Sections 56428 and 56857 of, the Government Code, relating to local agency formation commissions.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 56428 of the Government Code is repealed.

SEC. 2. Section 56428 is added to the Government Code, to read:

56428. (a) Any person or local agency may file a written request with the executive officer requesting amendments to a sphere of influence or urban service area adopted by the commission. The request shall state the nature of the proposed amendment, state the

reasons for the request, include a map of the proposed amendment, and contain any additional data and information as may be required by the executive officer.

(b) After complying with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code, the executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given. The executive officer shall give notice in the manner provided by Section 56427. On the date and time provided in the notice, the commission may do either of the following:

(1) Without further notice, consider the amendments to a sphere of influence.

(2) Set a future date for the hearing on the request.

(c) The executive officer shall review each requested amendment and prepare a report and recommendation. The report shall be completed not less than five days before the date specified in the notice of hearing. The executive officer shall send copies of the report to the person or agency making the request, each affected local agency, and each person who has filed a request for a report.

(d) At its meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 70 days from the date specified in the original notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(e) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. The commission shall follow the procedures in Sections 56425 and 56426.

(f) The commission may require the person or agency making a request pursuant to this section to pay a fee to cover the commission's costs. The fee shall not exceed the estimated reasonable cost of providing the service and shall be set pursuant to Section 56383. The commission may waive the fee if it finds that the request can be considered and studied as part of the periodic review of spheres of influence required by Section 56425. In addition, the commission may waive the fee if it finds that payment would be detrimental to the public interest.

(g) The commission and executive officer may review and act on any request to amend a sphere of influence or urban service area concurrently with their review and determination on any related change of organization or reorganization. In case of a conflict between the provisions of this section and any other provisions of this part, the other provisions shall prevail.

SEC. 3. Section 56845 of the Government Code is repealed.

SEC. 4. Section 56854 of the Government Code is amended to read:

56854. Any conducting authority may, before the completion of a proceeding, on good cause being shown, correct clerical errors or

mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the resolution adopted by the commission making determinations, if it first obtains the written consent of either the executive officer or the commission. The commission may likewise make those corrections before the completion of proceedings upon written request by any member of the commission, by the executive officer, or by any affected agency. A correction made pursuant to this section shall not be cause for filing a request pursuant to Section 56857.

SEC. 5. Section 56857 of the Government Code is repealed.

SEC. 6. Section 56857 is added to the Government Code, to read:

56857. (a) Any person or affected agency may file a written request with the executive officer requesting amendments to or reconsideration of any resolution adopted by the commission making determinations.

(b) Notwithstanding Section 56106, the deadlines set by this section are mandatory. The person or agency shall file the written request within 30 days of the adoption of the initial or superseding resolution by the commission making determinations or prior to the adoption of a resolution by the conducting authority pursuant to Chapter 4 (commencing with Section 57075), whichever is earlier. If no person or agency files a timely request, the commission shall not take any action pursuant to this section.

(c) Upon receipt of a timely request, the executive officer shall immediately notify the conducting authority which shall not take any further action until the commission acts on the request.

(d) Upon receipt of a timely request by the executive officer, any provisions of Part 4 (commencing with Section 57000) governing the time within which the conducting authority is to act shall be tolled for the time that the commission takes to act on the request.

(e) The executive officer shall place the request on the agenda of the next meeting of the commission for which notice can be given pursuant to this subdivision. The executive officer shall give notice of the consideration of the request by the commission in the same manner as for the original proposal The executive officer may give notice in any other manner as he or she deems necessary or desirable.

(f) At that meeting, the commission shall consider the request and receive any oral or written testimony. The consideration may be continued from time to time but not to exceed 35 days from the date specified in the notice. The person or agency which filed the request may withdraw it at any time prior to the conclusion of the consideration by the commission.

(g) At the conclusion of its consideration, the commission may approve or disapprove with or without amendment, wholly, partially, or conditionally, the request. If the commission disapproves the request, it shall not adopt a new resolution making determinations, but shall direct the executive officer to notify the conducting authority of its action. If the commission approves the request, with or without amendment, wholly, partially, or

conditionally, the commission shall adopt a resolution making determinations which shall supersede the resolution previously issued.

(h) The determinations of the commission shall be final and conclusive. No person or agency shall make any further request for the same change or a substantially similar change, as determined by the commission.

(i) Notwithstanding subdivision (h), clerical errors or mistakes may be corrected pursuant to Section 56854.

SEC. 7. In enacting this act, the Legislature does not intend to make any statement regarding any pending litigation.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 827

An act to amend Section 226 of the Labor Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 226 of the Labor Code is amended to read:

226. (a) Every employer shall semimonthly, or at the time of each payment of wages, furnish each of his or her employees either as a detachable part of the check, draft, or voucher paying the employee's wages, or separately when wages are paid by personal check or cash, an itemized statement in writing showing: (1) gross wages earned; (2) total hours worked by each employee whose compensation is based on an hourly wage; (3) all deductions; provided, that all deductions made on written orders of the employee may be aggregated and shown as one item; (4) net wages earned; (5) the inclusive dates of the period for which the employee is paid; (6) the name of the employee and his or her social security number; and (7) the name and address of the legal entity which is the employer.

The deductions made from cash payments of wages shall be recorded in ink or other indelible form, properly dated, showing the month, day, and year, and a copy of the statement, or a record of the deductions, shall be kept on file by the employer for at least three years at the place of employment or at a central location within the State of California.

An employer who is required by this code or any regulation adopted pursuant to this code to keep the information required by this section shall afford current and former employees the right to inspect or copy the records pertaining to that current or former employee, upon reasonable request to the employer. The employer may take reasonable steps to assure the identity of a current or former employee. If the employer provides copies of the records, the actual cost of reproduction may be charged to the current or former employee.

This section shall not apply to any employer of any person employed by the owner or occupant of a residential dwelling whose duties are incidental to the ownership, maintenance, or use of the dwelling, including the care and supervision of children, or whose duties are personal and not in the course of the trade, business, profession, or occupation of the owner or occupant.

(b) Any employee suffering injury as a result of a knowing and intentional failure by an employer to comply with subdivision (a) shall be entitled to recover all actual damages or one hundred dollars ($100), whichever is greater, plus costs and reasonable attorney fees.

(c) This section shall not apply to the state, or any city, county, city and county, district, or any other governmental entity.

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

In order for the maximum number of California residents to establish their eligibility under the federal Immigration Reform and Control Act (Public Law 99-603), it is necessary for this act to take effect immediately.

CHAPTER 828

An act to amend Sections 1370 and 1370.1 of the Health and Safety Code, and to add Section 11512.09 to the Insurance Code, relating to health.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 1370 of the Health and Safety Code is amended to read:

1370. Every plan shall establish procedures in accordance with department regulations for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs. Notwithstanding any other provision of law, there shall be no monetary liability on the part of, and no cause of

action for damages shall arise against, any person who participates in quality of care or utilization reviews by plan or provider peer review committees which are composed chiefly of physicians and surgeons, dentists, optometrists, or any of the above, for any act performed during the reviews if the person acts without malice, has made a reasonable effort to obtain the facts of the matter, and believes that the action taken is warranted by the facts, and neither the proceedings nor the records of the reviews shall be subject to discovery, nor shall any person in attendance at the reviews be required to testify as to what transpired thereat. Disclosure of the proceedings or records to the governing body of a plan or to any person or entity designated by the plan to review activities of the committees shall not alter the status of the records or of the proceedings as privileged communications.

The above prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a review who is a party to an action or proceeding the subject matter of which was reviewed, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits, or to the commissioner in conducting surveys pursuant to Section 1380.

This section shall not be construed to confer immunity from liability on any health care service plan. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a health care service plan, the cause of action shall exist notwithstanding the provisions of this section.

SEC. 2. Section 1370.1 of the Health and Safety Code is amended to read:

1370.1. Nothing in this article shall be construed to prevent a plan from utilizing subcommittees to participate in peer review activities, nor to prevent a plan from delegating the responsibilities required by Section 1370, as it determines to be appropriate, to subcommittees including subcommittees composed of a majority of nonphysician health care providers licensed pursuant to the Business and Professions Code, so long as the plan controls the scope of authority delegated and may revoke all or part of this authority at any time. Persons who participate in the subcommittees shall be entitled to the same immunity from monetary liability and actions for civil damages as persons who participate in plan or provider peer review committees pursuant to Section 1370.

SEC. 3. Section 11512.09 is added to the Insurance Code, to read:

11512.09. Every nonprofit hospital service plan which issues comprehensive health care contracts under subdivision (e) of Section 11493 shall establish procedures in accordance with those regulations that the department may issue for continuously reviewing the quality of care, performance of medical personnel, utilization of services and facilities, and costs. Notwithstanding any other provision of law, there shall be no monetary liability on the part

of, and no cause of action for damages shall arise against, any person who participates in quality of care or utilization reviews by plan or provider peer review committees which are composed chiefly of physicians and surgeons, dentists, optometrists, or any of the above, for any act performed during the reviews, if the person acts without malice, has made reasonable effort to obtain the facts of the matter, and believes that the action taken is warranted by the facts, and neither the proceedings nor the records of the reviews shall be subject to discovery, nor shall any person in attendance at the reviews be required to testify as to what transpired thereat. Disclosure of the proceedings or records to the governing body of a plan or to any person or entity designated by the plan to review activities of the committees shall not alter the status of the records or of the proceedings as privileged communications.

The above prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a review who is a party to an action or proceeding the subject matter of which was reviewed, or to any person requesting hospital staff privileges, or any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits, or to the commissioner in conducting surveys applicable to these provisions.

This section shall not be construed to confer immunity from liability on any nonprofit hospital service plan. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a nonprofit hospital service plan, the cause of action shall exist notwithstanding the provisions of this section.

Nothing in this article shall be construed to prevent a nonprofit hospital service plan from utilizing subcommittees to participate in peer review activities, nor to prevent a nonprofit hospital service plan from delegating the responsibilities required by this section, as it determines to be appropriate, to subcommittees including subcommittees composed of a majority of nonphysician health care providers licensed pursuant to the Business and Professions Code, so long as the nonprofit hospital service plan controls the scope of authority delegated and may revoke all or part of this authority at any time. Persons who participate in the subcommittees shall be entitled to the same immunity from monetary liability and actions for civil damages as persons who participate in plan or provider peer review committees pursuant to this section.

CHAPTER 829

An act to amend Sections 51401 and 51659 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 51401 of the Health and Safety Code is amended to read:

51401. Notwithstanding any other provision of this division, as used in this chapter:

(a) "Mortgage loan" means any residential mortgage loan or multifamily rental housing loan.

(b) "Multifamily rental housing" means any existing structure of more than four dwelling units or any work or undertaking of more than four units of new construction, improvement, or rehabilitation for the provision of housing.

(c) "Multifamily rental housing loan" means a mortgage loan secured by a mortgage on multifamily rental housing.

(d) "Residence" means any existing structure of one to four dwelling units or any work or undertaking of one to four dwelling units of new construction, improvement, or rehabilitation for the provision of housing.

(e) "Residential mortgage loan" means a mortgage loan secured by a mortgage on a residence.

(f) "Taxable securities" means securities bearing interest that is otherwise taxable under the personal income tax provisions of federal tax law and which are issued to finance the purchase or making of mortgage loans pursuant to this chapter.

SEC. 2. Section 51659 of the Health and Safety Code is amended to read:

51659. (a) The obligation of the agency and of the state to pay any insurance benefit pursuant to contracts of insurance insuring loans or bonds shall not exceed amounts deposited in the insurance fund which are made available therefor under the respective contracts of insurance. Nothing in this part shall require the Legislature to appropriate moneys from the General Fund in the State Treasury to the Housing Insurance Fund on account of these obligations. The insurance of loans or bonds under the provisions of this part shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

(b) All contracts of insurance insuring loans or bonds pursuant to this part shall contain on the face thereof a statement to the following

effect: "Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this contract of insurance."

(c) Moneys in the insurance fund may not be transferred to any other fund of the agency except as necessary to pay the expenses of operating the program of loan and bond insurance authorized by this part, nor shall the agency utilize any moneys under the direction and control of the agency, other than moneys in the insurance fund, to satisfy liabilities arising from contracts of insurance authorized by this part.

(d) Notwithstanding any other provision of law, the agency may on behalf of the Housing Insurance Fund borrow moneys from the California Housing Finance Fund, or from any other state fund available by law for this purpose to meet a pledge or obligation for insurance reserves if insufficient funds therefor exist in the Housing Insurance Fund and if authorized by a resolution of the board. The agency may also on behalf of the Housing Insurance Fund borrow moneys from any other state fund, as may be authorized by law, order to create reserves in the insurance fund for loan or bond insurance as provided in this part and as authorized by board resolution.

SEC. 3. In enacting the changes in subdivision (d) of Section 51659 of the Health and Safety Code made by Section 2 of this act, it is the intent of the Legislature (1) to facilitate the initial rating of the Housing Insurance Fund's claims-paying ability by the Standard and Poor's Corporation and Moody's Investors Service by clarifying the agency's authority to make an enforceable general pledge of support on behalf of the Housing Insurance Fund, (2) that this pledge not be used to increase the amount of insurance the Housing Insurance Fund is authorized to transact through inclusion in the risk-to-capital ratios established for the agency by these rating services of moneys transferred to the Housing Insurance Fund pursuant to subdivision (d) of Section 51659 of the Health and Safety Code, and (3) that these changes not result in an dimunition of effort or reduction in the funds now allocated by the agency to its special programs, including: the deferred-low-interest-loan program for multifamily rental developments, the matching-down-payment program for single-family home ownership and self-help housing, and the reduced-mortgage-interest program for self-help housing.

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

In order to provide for adequate insurance reserves in the Housing Insurance Fund without delay and to facilitate issuance by the California Housing Finance Agency of revenue bonds under federal tax laws, it is necessary that this act take effect immediately.

CHAPTER 830

An act to amend Section 12419.8 of the Government Code, to amend Sections 75.70, 95, 175, 2821, 2921.5, 2922.5, 3455, 3691.4, 3712, 3725, 3809, 3811, 4105, 4222, 4674, 4831, 4837.5, 5086, and 5832 of, to amend and renumber Section 2770 of, and to repeal Sections 157, 176, 406, 2929, 3521, 4104.4, and 4104.5 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988.]

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

SECTION 1. Section 12419.8 of the Government Code is amended to read:

12419.8. The Controller may, in his or her discretion, offset any amount due a county from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

The Controller shall deduct and retain from any amount offset in favor of a county an amount sufficient to reimburse the Controller and the Franchise Tax Board for their administrative costs of processing the offset payment.

The provisions of this section shall apply only where amounts have been reduced to judgment, are contained in an order of a court, or are delinquent unsecured property taxes on which a certificate lien has been filed for record in the office of the county recorder pursuant to Section 2191.3 of the Revenue and Taxation Code.

Upon the tax collector's request for taxpayer identification numbers required by the Controller's procedures, the assessor shall immediately notify the appropriate assessee, by registered or certified mail, that the request has been made for the purpose of intercepting refunds from the state government due the taxpayer, in order to offset the delinquent property tax obligation. The letter shall state that if the assessee does not pay the outstanding tax amount to the tax collector within 20 days, the required taxpayer identification number will be so provided.

The assessor shall not be named in any action that may be brought as a result of compliance with this provision.

SEC. 2. Section 75.70 of the Revenue and Taxation Code is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the

1983–84 fiscal year, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, and without respect to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments for the current roll under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

(b) For the 1984–85 fiscal year, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate to the county the amount determined pursuant to Section 75.60.

(3) Allocate to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate to each community college district and county superintendent of schools within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate to each city within the county an amount equal to the total amount of additional revenue generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(6) Allocate to each special district within the county an amount

equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraphs (1) and (2), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing board is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(7) Allocate the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year.

(8) Allocate additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period.

(c) For the 1985–86 fiscal year, and each fiscal year thereafter, the county auditor shall, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, do all of the following:

(1) Make the allocation and payment of funds as provided in Section 33670 of the Health and Safety Code.

(2) Allocate and pay to the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by the county's property tax apportionment factor determined pursuant to Section 97.5.

(3) Allocate and pay to each county superintendent of schools and community college district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each county superintendent of schools' and community college district's property tax apportionment factor determined pursuant to Section 97.5.

(4) Allocate and pay to each city within the county an amount equal to the total amount of additional revenues generated by the

rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each city's property tax apportionment factor determined pursuant to Section 97.5.

(5) Allocate and pay to each special district within the county an amount equal to the total amount of additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter, less the amount determined pursuant to paragraph (1), the remainder multiplied by each special district's property tax apportionment factor determined pursuant to Section 97.5. The amount allocated to each special district which is governed by the board of supervisors of a county or whose governing body is the same as the board of supervisors of a county, shall be subject to Section 98.6.

(6) Allocate and pay the remaining revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for the purposes of the advance apportionment of state aid in the then current fiscal year.

(7) Allocate and pay additional revenues generated by a rate levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution to the fund or funds for which the tax rate or rates were levied.

These allocations and payments shall be made on a timely basis but no later than 30 calendar days after the close of the preceding monthly or four-weekly accounting period. For a county with a population of 500,000 or less, the allocations may be made on a biannual basis.

(d) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(e) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(f) On or before November 15 and April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

(g) In the event property tax revenues under this chapter are generated by a change in ownership or completed new construction which occurred on or before May 31, 1984, but are collected subsequent to the 1983–84 fiscal year, the revenues for the current roll shall be allocated to school districts as if they had been collected and allocated during this 1983–84 fiscal year. Any of the aforementioned revenues which are collected in the 1984–85 fiscal year shall be applied to school apportionments for the 1984–85 fiscal year.

SEC. 3. Section 95 of the Revenue and Taxation Code is amended to read:

95. For the purpose of this chapter:

(a) "Local agency" means a city, county, and special district.

(b) "Jurisdiction" means a local agency, school district, community college district, or county superintendent of schools.

For jurisdictions located in more than one county, the county auditor of each county in which that jurisdiction is located shall, for the purposes of computing the amount for that jurisdiction pursuant to this chapter, treat the portion of the jurisdiction located within that county as a separate jurisdiction.

(c) "Property tax revenue" includes the amount of state reimbursement for the homeowners' exemption.

"Property tax revenue" does not include the amount of property tax levied for the purpose of making payments for the interest and principal on (1) general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, including tax rates levied pursuant to Part 10 (commencing with Section 15000) of Division 1 of, and Sections 39308 and 39311 and former Sections 81338 and 81341 of the Education Code, and Section 26912.7 of the Government Code, and (2) bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

(d) "Taxable assessed value" means total assessed value minus all exemptions other than the homeowners' and business inventory exemptions.

(e) "Jurisdictional change" includes a change of organization, as defined in Section 35027 of the Government Code, an incorporation, as defined in Section 35037 of the Government Code, a municipal reorganization, as defined in Section 35042 of the Government Code, a change of organization, as defined in Section 56028 of the Government Code, a formation, as defined in Section 56042 of the Government Code, and a reorganization, as defined in Section 56068 of the Government Code. "Jurisdictional change" also includes any change in the boundary of those special districts which are not under the jurisdiction of a local agency formation commission.

Jurisdictional change shall also include a functional consolidation where two or more local agencies, except two or more counties, exchange or otherwise reassign functions and any change in the boundaries of a school district or community college district or

county superintendent of schools.

(f) "School entities" means school districts, community college districts, and county superintendents of schools.

(g) Except as otherwise provided in this subdivision, "tax rate area" means a specific geographic area all of which is within the jurisdiction of the same combination of local agencies and school entities for the current fiscal year.

In the case of a jurisdictional change pursuant to Section 99, the area subject to the change shall constitute a new tax rate area, except that if the area subject to change is within the same combinations of local agencies and school entities as an existing tax rate area, the two tax rate areas may be combined into one tax rate area.

Existing tax rate areas having the same combinations of local agencies and school entities may be combined into one tax rate area. For the combination of existing tax rate areas, the factors used to allocate the annual tax increment pursuant to Section 98 shall be determined by calculating a weighted average of the annual tax increment factors used in the tax rate areas being combined.

(h) "State assistance payments" means:

(1) For counties, amounts determined pursuant to subdivision (b) of Section 16260 of the Government Code, increased by the amount specified for each county pursuant to Section 94 of Chapter 282 of the Statutes of 1979, with the resultant sum reduced by an amount derived by the calculation made pursuant to Section 16713 of the Welfare and Institutions Code.

(2) For cities, 82.91 percent of the amounts determined pursuant to subdivisions (b) and (i) of Section 16250 of the Government Code plus for any city an additional amount equal to one-half of the amount of any outstanding debt as of June 30, 1978, for "museums" as shown in the Controller's "Annual Report of Financial Transactions of Cities for Fiscal Year 1977–78."

(3) For special districts, 95.24 percent of the amounts received pursuant to Chapter 3 (commencing with Section 16270) of Part 1.5 of Division 4 of Title 2 of the Government Code, Section 35.5 of Chapter 332 of the Statutes of 1978, and Chapter 12 of the Statutes of 1979.

(i) "City clerk" means the clerk of the governing body of a city or city and county.

(j) "Executive officer" means the executive officer of a local agency formation commission.

(k) "City" means any city whether general law or charter, except a city and county.

(*l*) "County" means any chartered or general law county. "County" includes a city and county.

(m) "Special district" means any agency of the state for the local performance of governmental or proprietary functions within limited boundaries. "Special district" includes a county service area, a maintenance district or area, an improvement district or improvement zone, or any other zone or area, formed for the

purpose of designating an area within which a property tax rate will be levied to pay for a service or improvement benefiting that area. "Special district" includes the Bay Area Air Quality Management District. "Special district" does not include a city, a county, a school district or a community college district. "Special district" does not include any agency which is not authorized by statute to levy a property tax rate. However, any special district authorized to levy a property tax by the statute under which the district was formed shall be considered a special district.

SEC. 4. Section 157 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 175 of the Revenue and Taxation Code is amended to read:

175. All deeds heretofore and hereafter issued to any taxing agency, including taxing agencies which have their own system for the levying and collection of taxes, by reason of the delinquency of property taxes or assessments levied by any taxing agency or revenue district, shall be conclusively presumed to be valid unless held to be invalid in an appropriate proceeding in a court of competent jurisdiction to determine the validity of the deed commenced within one year after the execution of the deed, or within one year after the effective date of this section, whichever is later. These proceedings may be prosecuted within the time limits specified above in the manner and subject to the provisions of Sections 3618 to 3636, inclusive.

SEC. 6. Section 176 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 406 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 2770 of the Revenue and Taxation Code is amended and renumbered to read:

2610.6. When the tax collector sends a tax bill to any person respecting property which has been assessed to another and who has the power, pursuant to written or oral authorization, to pay the taxes on behalf of another, the tax collector shall send to the assessee an information copy of the tax bill, except, that the copy shall state plainly that the copy is not a bill and that the original bill has been sent to another person for payment.

SEC. 9. Section 2821 of the Revenue and Taxation Code is amended to read:

2821. Any person filing an affidavit of interest may apply to the tax collector to have any parcel separately valued on the current roll for the purpose of paying taxes. A county may, upon approval of the board of supervisors, require that the applicant notify the property owner.

The application shall be made during the current fiscal year, and shall set forth the fact that a duly executed and recorded deed, purchase contract, deed of trust, mortgage, or final decree of court describes the parcel sought to be separately valued. A county may,

upon approval of the board of supervisors, prohibit these applications during the 10 working days preceding each tax installment delinquency date and during the 10 working days preceding June 30th of each year.

The application may request that the tax created by the assessment of personal property, or leasehold improvements, or possessory interests on the whole assessment be allowed to remain as a lien on the parcel sought to be separately valued.

If any lien not determined by the application of a tax rate on a valuation of property has been levied or placed on the whole assessment, the application may be accompanied by the certification of the taxing agency or revenue district authorized by law to levy or place the lien, setting forth the specific amount of that portion of the lien levied or placed on the whole assessment which is to continue to be levied or placed on the parcel sought to be separately valued.

The board of supervisors may provide that a parcel with a lien against it and other property, pursuant to the Improvement Act of 1911, Division 7 (commencing with Section 5000) of the Streets and Highways Code, or the Improvement Bond Act of 1915, Division 10 (commencing with Section 8500) of the Streets and Highways Code, will not be separately valued unless a request has been made to the agency levying the bond lien for a division of land and bond. A copy of the requested division of land and bond shall accompany the request for separate property tax valuation.

Any separations of property pursuant to this section are for valuing property for tax purposes only, and are not intended to create a legal building site or to supersede requirements pursuant to zoning, building, lot split or subdivision ordinances.

Once created, an individual interest parcel may be entered as a separate assessment on subsequent assessment rolls until such time as ownership of the interest is conveyed or until the original applicant or his or her agent requests that the parcel be recombined.

Upon authorization by ordinance by the board of supervisors, the tax collector may charge an application fee for actual costs incurred for the processing of an application for the separate valuation of any parcel on the current roll. Fees shall be governed by the provisions of Chapter 12.5 (commencing with Section 54985) of Part 1 of Division 2 of Title 5 of the Government Code.

SEC. 10. Section 2921.5 of the Revenue and Taxation Code is amended to read:

2921.5. (a) Except as provided in subdivision (b), taxes, penalties, and costs on unsecured property as defined in subdivision (b) of Section 134, shall be transferred from the "secured roll" to the "unsecured roll" of the corresponding year by the county auditor on order of the board of supervisors with the written consent of the county legal advisor pursuant to Article 5 (commencing with Section 5081) of Chapter 4 of Part 9 at the same time the taxes are canceled on the property, and shall be collected in the same manner as other delinquent taxes on the "unsecured roll."

(b) No delinquent penalty shall attach to taxes transferred pursuant to subdivision (a), except to those taxes which carried delinquent penalty on the secured roll at the time the property involved was acquired by a public entity.

SEC. 11. Section 2922.5 of the Revenue and Taxation Code is amended to read:

2922.5. Notwithstanding Section 2922, with respect to taxes on the unsecured roll where an application for reduction in assessment has been filed pursuant to Section 1607 and the board reduces the assessment in dispute, Section 4985 shall apply.

If a taxpayer does not pay by the delinquency date established by Section 2922 and indicated on the unsecured assessment roll, interest at the rate of 1 percent per month on the unpaid tax shall be charged from that date to the date of correction. Taxes unpaid by 5 p.m. on the date established by Section 4985 are delinquent and thereafter a delinquent penalty of 10 percent attaches to them.

If taxes are not paid by 5 p.m. of the last day of the second succeeding month after the 10 percent penalty attaches, an additional penalty of 1½ percent attaches to them on the first day of each month thereafter until the time of payment or until the time a court judgment is entered for the amount of the unpaid taxes and penalties, whichever occurs first.

This section is not applicable to assessments made pursuant to Section 501, or to assessments made pursuant to Section 531.2 where the escape is the result of an act or omission of the assessee and to assessments made pursuant to Sections 531.3, 531.4, and 531.5.

SEC. 12. Section 2929 of the Revenue and Taxation Code is repealed.

SEC. 13. Section 3455 of the Revenue and Taxation Code is amended to read:

3455. If any negotiable paper is not paid on due presentation for any reason, any record of payment made on any official record because of its acceptance shall be canceled, and the bid upon which the negotiable paper was accepted shall be voided as if no bid had been made, and the original owner's right of redemption is revived.

SEC. 14. Section 3521 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 3691.4 of the Revenue and Taxation Code is amended to read:

3691.4. The notice to the Controller shall be recorded with the county recorder. After recordation, the notice shall be forwarded to the Controller. The recorder shall make no charge for the recording.

SEC. 16. Section 3712 of the Revenue and Taxation Code is amended to read:

3712. The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:

(a) Any lien for installments of special assessments, which installments will become payable upon the secured roll after the time of the sale.

(b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.

(c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.

(d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.

(e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property or any interest therein for a public purpose.

(f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

(g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.

SEC. 17. Section 3725 of the Revenue and Taxation Code is amended to read:

3725. A proceeding based on alleged invalidity or irregularity of any proceedings instituted under this chapter can only be commenced within one year after the date of execution of the tax collector's deed.

Sections 351 to 358, inclusive, of the Code of Civil Procedure do not apply to the time within which a proceeding may be brought under this section.

SEC. 18. Section 3809 of the Revenue and Taxation Code is amended to read:

3809. A proceeding based on alleged invalidity or irregularity of any agreement or deed executed under this article can only be commenced within one year after the execution of the instrument.

Sections 351 to 358, inclusive, of the Code of Civil Procedure do not apply to the time within which a proceeding may be brought under this section.

SEC. 19. Section 3811 of the Revenue and Taxation Code is amended to read:

3811. On execution of the deed to the taxing agency or nonprofit organization, and on receipt of a notice of resale of the property by the taxing agency the tax collector shall report the following within 10 days to the Controller, the assessor, and the auditor:

(a) The name of the purchaser.

(b) The date of the deed to the taxing agency or nonprofit

organization, or in the event of resale the date of the deed by the taxing agency.

(c) The amount for which the property was sold or in the event of resale the net amount after deducting allowable expenses.

(d) The description of the property conveyed.

SEC. 20. Section 4104.4 of the Revenue and Taxation Code is repealed.

SEC. 21. Section 4104.5 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 4105 of the Revenue and Taxation Code is amended to read:

4105. The tax collector shall be the redemption officer of the county. Application to redeem shall be made to the tax collector.

SEC. 23. Section 4222 of the Revenue and Taxation Code is amended to read:

4222. If all payments are not made on or before the dates prescribed, the property may become subject to a power of sale pursuant to Section 3691 in the same manner as if no election to pay delinquent taxes in installments had been made. In the event that the default occurs at the time the second or subsequent installment is due and the assessee or agent of the assessee can, by substantial evidence, convince the tax collector that the payment was not made through any fault of the assessee, the tax collector may reinstate the account upon receipt of a payment in an amount reflecting the installment due plus interest under Section 4221 to the date of reinstatement, provided the payment is physically received by the tax collector prior to the time the property becomes subject to the tax collector's power to sell or prior to June 30 of the current fiscal year, whichever occurs earlier.

SEC. 24. Section 4674 of the Revenue and Taxation Code is amended to read:

4674. Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the recordation of the tax deed to the purchaser, any excess proceeds not claimed under Section 4675 shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the tax collector may deduct those costs of maintaining the redemption and tax-defaulted property files which have not been recovered under any other provision of law.

SEC. 25. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. (a) Any error resulting in incorrect entries on the roll may be corrected under this article. The correction may be made at any time after the roll is delivered to the auditor but shall be made within four years after the making of the assessment which is being corrected. This section does not apply to either of the following:

(1) Errors involving the exercise of value judgments.

(2) Escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2.

If any error referred to in this subdivision is discovered as the result of an audit of a taxpayer's books and records, that error may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Taxes which are not a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor on order of the board of supervisors with the written consent of their legal counsel. These taxes shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 5090. The statute of limitations for the collection of those taxes shall commence to run from the date of transfer.

SEC. 26. Section 4837.5 of the Revenue and Taxation Code is amended to read:

4837.5. (a) Notwithstanding any other provision of law, taxes due, whether secured or unsecured, on escape assessments for prior fiscal years, where the error causing the escape assessment was not that of the assessee, or taxes due because of the correction of any assessor's error for prior fiscal years under this article, where that error was made without fault on the part of the assessee, may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over one hundred dollars ($100), and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section.

If payment by installments is requested, 20 percent of the tax shall be paid no later than the deadline for filing the written request. The current taxes and prior year taxes with penalties and costs thereon shall be paid with or prior to the initial installment payment. In each succeeding fiscal year, the assessee shall pay, before the delinquency date of the second installment of current taxes on the secured roll, all current year taxes. and a sum at least sufficient to reduce the outstanding balance of the tax by 20 percent of the original amount.

No penalties shall be charged so long as installment payments are made timely. If any installment is not paid timely, or if the property on the secured roll becomes tax defaulted, or if the property changes ownership, or if taxes for the property on the unsecured roll are not paid before becoming delinquent, the balance of the tax remaining to be paid shall immediately become due and payable, no further installment payments for that escape assessment or correction shall be authorized, and the remaining balance of the tax shall become

subject to all of the provisions of this division applicable to delinquent taxes.

The tax collector shall maintain records listing the current status of all the installment accounts authorized under this section and the fact of each installment account shall be entered on the current roll.

SEC. 27. Section 5086 of the Revenue and Taxation Code is amended to read:

5086. If exempt property is acquired by negotiated purchase, gift, devise, or eminent domain after commencement of the fiscal year for which the current taxes are a lien on the property:

(a) The portion of the current taxes and any penalties and costs that are allocable to the part of the fiscal year that ends on the day before the date of apportionment shall be paid through escrow at the close of escrow or from the award in eminent domain.

(b) The portion of the current taxes and any penalties and costs that are allocable to the part of the fiscal year that begins on the date of apportionment shall be canceled and are not collectible either from the person from whom the property was acquired or from the public entity that acquired the property.

(c) If the amount of taxes or special assessment liens is unknown, the portion of the current taxes attributable to the period of the fiscal year that ends on the day before the date of apportionment shall be ascertained by the auditor on a pro rata basis of the previous year's taxes, and shall be paid to the tax collector. The auditor shall adjust the assessment roll and the tax charge accordingly.

SEC. 28. Section 5832 of the Revenue and Taxation Code is amended to read:

5832. (a) Upon application, the county tax collector shall issue a tax clearance certificate or a conditional tax clearance certificate. Any tax clearance certificate issued shall be used to permit registration of used manufactured homes or mobilehomes and for any other purposes which may be prescribed by the Controller. The certificate may indicate that the county tax collector finds that no local property tax is due or is likely to become due, or that any applicable local property taxes have been paid or are to be paid in a manner not requiring the withholding of registration or the transfer of registration. Any conditional tax clearance certificate issued shall indicate that the county tax collector finds that a tax liability exists, the amount due, and the final date that amount may be paid before a further tax liability is incurred. The certificate shall be in such form as the Controller may prescribe, and shall be executed, issued, and accepted for clearance of registration or permit issuance on the conditions which the Controller may prescribe.

(b) Within five working days of receipt of the written demand for a conditional tax clearance certificate or tax clearance certificate, the county tax collector shall forward the conditional tax clearance certificate or tax clearance certificate, showing no tax liability exists, to the requesting escrow officer. In the event the final due date of the tax clearance certificate or conditional tax clearance certificate

expires within 30 days of the date of its issuance, an additional conditional tax clearance certificate or tax clearance certificate shall be completed, which has a final due date of at least 30 days beyond the date of issuance.

(c) If the tax collector fails to comply with the demand within 30 days from the date the demand is mailed, the escrow officer may close the escrow in accordance with the provisions of subdivision (m) of Section 18035 of the Health and Safety Code.

(d) Notwithstanding any provisions of law requiring the tax collector to issue a tax clearance certificate or conditional tax clearance certificate within a specified period of time, when an escrow information demand is made pursuant to Section 18035 of the Health and Safety Code for a mobilehome that has not been enrolled in the county, the tax collector shall be afforded the number of working days necessary for the assessor to determine the value of the mobilehome and for the auditor to extend tax liability.

(e) The issuance, alteration, forgery, or use of any tax clearance certificate or conditional certificate in a manner contrary to the requirements of the Controller constitutes a misdemeanor.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

SEC. 30. (a) Every act and proceeding heretofore taken by any taxing agency or revenue district or the officers thereof relative to preparing, transmitting, computing, determining, or fixing the budget or the tax rate or taxes of any taxing agency or revenue district, or to the assessment or equalization of property or to the levy of taxes thereon or to tax collection, sales, or certificates of tax sales, tax deeds, or other conveyances, are hereby confirmed, validated, and declared legally effective.

(b) As used in this section, "revenue district" includes every city and district for which the county officers assess property and collect taxes or assessments.

As used in this section, "taxing agency" includes the county and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed.

(c) This section is limited to the correction of defects, irregularities, and ministerial errors which the Legislature originally could have omitted from the statutory requirements of law under which the acts hereby confirmed, validated, and declared legally effective were taken.

(d) This section is limited to the validating of acts and proceedings to the extent of which this validating can be effectuated under the California and United States Constitutions.

(e) This section shall not operate to confirm, validate, or legalize any act, proceeding, or other matter the legality of which is being

contested or inquired into in any legal proceeding, now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this act, and shall not operate to confirm, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

(f) Nothing in this section shall operate to make valid any property tax rate which is in excess of that permitted by law.

(g) If any provisions of this section or its application to any person or circumstances are held invalid, the remainder of the section and application of its provisions to other persons or circumstances is not affected.

SEC. 31. This act shall be applicable to the 1989–90 fiscal year and fiscal years thereafter.

CHAPTER 831

An act to amend Section 666 of the Penal Code, relating to crimes.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 12, 1988]

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

SECTION 1. Section 666 of the Penal Code is amended to read:

666. Every person who, having been convicted of petit theft, grand theft, auto theft under Section 10851 of the Vehicle Code, burglary, robbery, or a felony violation of Section 496 and having served a term therefor in any penal institution or having been imprisoned therein as a condition of probation for that offense, is subsequently convicted of petit theft, then the person convicted of that subsequent offense is punishable by imprisonment in the county jail not exceeding one year, or in the state prison.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 832

An act to add and repeal Article 2.5 (commencing with Section 33130) of Chapter 2 of Part 20 of, and to add and repeal Section 37222 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Each child in California has a right to quality education without regard to which school in this state that child attends.

(2) There are schools in this state that perform at a higher level than other schools with similar demographic characteristics, which differences in performance are not necessarily related to the resources available to the schools.

(b) It is the intent of the Legislature, pursuant to this act, to foster the development of model criteria for identifying at-risk schools, and to develop recommendations for a plan to identify, assist, and hold accountable at-risk public schools in this state, to the end that every public school reaches or exceeds an acceptable level of school performance.

(c) It is the intent of the Legislature that subsequent legislation be enacted to implement a plan to identify, assist, and hold accountable at-risk public schools in this state, using the recommendations developed by the task force established under this act.

SEC. 2. Article 2.5 (commencing with Section 33130) is added to Chapter 2 of Part 20 of the Education Code, to read:

Article 2.5. School Performance

33130. (a) The Governor and the Superintendent of Public Instruction shall jointly establish and convene an advisory task force on at-risk schools. The State Department of Education shall provide staff assistance to the task force. The task force shall do all of the following:

(1) Develop model criteria for identifying at-risk schools and for recommending to the Legislature a plan to identify, assist, and hold accountable at-risk public schools in this state. In developing those criteria, the task force shall consider the use of a variety of data and shall seek advice from elementary and high school districts.

(2) Consider, and make recommendations to the Legislature and the Governor regarding a variety of statutory strategies for encouraging and assisting the improvement of schools identified as

at-risk. The task force shall submit a copy of those recommendations to the Superintendent of Public Instruction. The strategies to be considered for this purpose shall include targeted assistance from experienced educational practitioners, intensive staff training in subject matter knowledge, a staged intervention process, the use of school-based management teams, and any other strategies deemed appropriate by the task force. Pursuant to his purpose, the task force shall consider all of the following:

(A) Existing statutes addressing public school performance and intervention.

(B) Available reports regarding the improvement of at-risk schools, including the report presented to the Senate Education Committee by the Task Force on Schools with Underachieving Students and recommendations made by the California Commission on Educational Quality.

(C) Proposals and recommendations made by education groups throughout the state for the improvement of at-risk schools.

(b) It is the intent of the Legislature that all members of the task force be persons having recent experience working with at-risk schools. The task force shall consist of 13 members, as follows:

(1) Seven persons appointed by the Governor, at least two of whom shall be practicing school administrators. It is the intent of the Legislature that the other five persons be experienced educators, including one or more of the following: classroom teachers, administrators, school district governing board members, school nurses, school psychologists, school counselors, or educational consultants who work specifically on the improvement of at-risk schools. The Governor shall designate one of the members appointed pursuant to this subdivision as the chairperson of the task force.

(2) Two persons appointed by the Speaker of the Assembly, and two persons appointed by the Senate Rules Committee, all four of whom shall be currently practicing classroom teachers with experience in at-risk schools.

(3) Two persons appointed by the Superintendent of Public Instruction, one of whom shall be a classroom teacher with experience in at-risk schools.

(c) No later than February 15, 1989, the task force shall submit recommendations to the Legislature and the Governor regarding statutory criteria for the identification of at-risk schools, and for a variety of statutory strategies for the improvement of those schools. The task force shall submit a copy of those recommendations to the Superintendent of Public Instruction.

(d) All meetings of the task force shall be subject to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Members of the task force shall be reimbursed for actual expenses associated with serving on the task force, as determined by the Department of Personnel Administration.

(f) This article shall remain in effect only until June 30, 1989, and

as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1989, deletes or extends that date.

SEC. 3. Section 37222 is added to the Education Code, to read:

37222. The second Wednesday in May is designated and set apart as the Day of the Teacher.

All public schools and educational institutions are encouraged to observe the day with suitable exercises commemorating and directing attention to teachers and the teaching profession. It is the intent of the Legislature that the exercises required in this section be integrated into the regular school program, and be conducted by the school or institution within the amount otherwise budgeted for educational programs.

This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 4. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for the 1988–89 fiscal year to provide assistance to the task force for the purposes of Sections 1 and 2 of this act, and for the payment of expenses incurred by the task force.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that model criteria for identifying at-risk schools and strategies for improving those schools may be developed at the earliest time possible, and to encourage public schools to commence necessary preparations for the observance of the Day of the Teacher in the 1988–89 school year, it is necessary that this act take effect immediately.

CHAPTER 833

An act relating to parks and recreation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Notwithstanding any other provision of law, the County of San Bernardino may, pursuant to subdivision (a) of Section 5626 of the Public Resources Code, grant an easement for road purposes across lands within the Glen Helen Regional Park acquired with grant moneys received pursuant to the Roberti-Z'berg Urban Open-Space and Recreation Program Act (Chapter 3.2

(commencing with Section 5620)) of Division 5 of the Public Resources Code, subject to an exchange for, or acquisition of, property of equal or greater recreation value, as determined by the Department of Parks and Recreation, and at no cost to the state. Any property acquired shall be utilized solely for park purposes and, shall be subject to all applicable requirements of the Roberti-Z'berg Urban Open-Space and Recreation Program Act.

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

In order to authorize the granting of urgently needed easements for road purposes in Glen Helen Regional Park at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 834

An act to add Chapter 12.4 (commencing with Section 54984) to Part 1 of Division 2 of Title 5 of the Government Code, relating to standby charges.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Chapter 12.4 (commencing with Section 54984) is added to Part 1 of Division 2 of Title 5 of the Government Code, to read:

CHAPTER 12.4. UNIFORM STANDBY CHARGE PROCEDURES ACT

54984. This chapter shall be known as the Uniform Standby Charge Procedures Act.

54984.1. The procedures set forth in this chapter shall be available to any local agency authorized by law to provide water, sewer, or water and sewer service, and authorized to fix, levy, or collect any standby or availability charge or assessment in connection with the provision of that service. Any local agency electing to utilize the standby charge procedures set forth in this chapter shall, in connection with the procedures for fixing and levying of these charges for the year in which the election is made, be governed by the provisions of this chapter alone. Nothing in this chapter shall affect the standby charge procedures authorized or provided for otherwise, if the local agency elects to use those procedures. Any charges imposed under this chapter are deemed to be assessments and, if imposed upon public entities, are subject to Chapter 13.7 (commencing with Section 54999).

54984.2. Any local agency which is authorized by law to provide water, sewer, or water and sewer service, and which is providing either or both of those services within its jurisdiction, may fix, before either (a) August 10 of any given year with respect to local agencies the taxes or assessments of which are collected for the local agency by the county or (b) the start of the fiscal year with respect to local agencies the taxes or assessments of which are collected by the local agency, a water or sewer standby charge, or both, on land within the jurisdiction of the local agency to which water, sewer, or water and sewer services are made available for any purpose by the agency, whether the water or sewer services are actually used or not. The governing body of the agency which fixes the charge may establish schedules varying the charge according to land uses, benefit derived or to be derived from the use or availability of facilities to provide water, sewer, or water and sewer service, or the degree of availability or quantity of the use of the water, sewer, or water and sewer services to the affected lands, and may restrict the assessment to one or more improvement districts or zones of benefit established within the jurisdiction of the agency. The charge may be imposed on an area, frontage, or parcel basis, or a combination thereof.

54984.3. The governing body of the local agency shall adopt a resolution to initiate proceedings to fix a standby charge. The resolution shall contain all of the following:

(a) A statement that the report of a qualified engineer is on file with the agency and that a standby charge is proposed based upon the report. The report shall include all of the following:

(1) A description of the charge and the method by which it will be imposed.

(2) A compilation of the amount of the charge proposed for each parcel subject to the charge.

(3) A statement of the methodology and rationale followed in determining the degree of benefit conferred by the service for which the charge is made.

(4) The other factors listed in Section 54984.2.

(b) A description of the lands upon which the charge is to be imposed. Assessor parcel numbers shall constitute sufficient description for this purpose.

(c) The amount of the charge for each of the lands so described.

(d) The date, time, and place upon which the governing body will hold a public protest hearing regarding the imposition of the charge, and notice that the governing body will hear and consider all objections or protests, if any, to the proposed charges.

54984.4. The local agency shall cause notice of a time and place of hearing on the charge to be published, pursuant to Section 6066, prior to the date set for hearing, in a newspaper of general circulation printed and published within the jurisdiction of the entity, if there is one, and if not, then in a newspaper of general circulation printed and published in the county. In addition, the local agency shall cause a notice in writing to be mailed, at least 14 days prior to the date set

for hearing, to each owner of land described in the resolution initiating proceedings. The notice shall be mailed to the address shown on the last equalized assessment roll, or known to the secretary or clerk of the local agency.

54984.5. At the time and place stated in the notice, the governing body shall conduct the hearing, and shall hear and consider all objections or protests, if any, to the resolution referred to in the notice, and may continue the hearing from time to time. Upon the conclusion of the hearing, the governing board may adopt, revise, change, reduce, or modify, or withdraw a charge. The governing board shall make its determination upon each assessment or charge described in the resolution, which determination shall be final.

54984.6. (a) Any landowner desiring to make a protest shall do so by written communication filed with the local agency not later than the hour set for the hearing. A protest by a landowner shall contain a description sufficient to identify the land owned by the landowner. A written protest may be withdrawn at any time before the determination on the charge by the governing body.

(b) If the governing body receives written protests which are not withdrawn at the time of determination by the governing body, which protests represent 40 percent of the parcels subject to the charges authorized by this chapter, no further proceedings may be had under this chapter until a period of one year shall have passed from the time of the initiation of this procedure.

(c) If the governing body receives written protests which are not withdrawn at the time of the determination by the governing body, which protests represent 15 percent or more of the parcels subject to the charges authorized by this chapter the governing body may still adopt, revise, change, reduce, or modify a charge, but all the charges are ineffective until collectively approved by a majority of the vote in an election within the affected territory in which the owner of one or more parcels may cast one vote for each parcel owned within the affected territory.

54984.7. If the procedures set forth in this chapter have been followed in a given year, the governing body may, by resolution, continue the charge in successive years at the same rate and in the same manner, but dispensing with the requirement for mailed notice. The local agency shall cause notice of the intent to adopt the resolution to be published pursuant to Section 6066, prior to the date set for adoption, and shall hear any and all objections at the time and place set forth in the notice. The governing body shall, at the time and place specified, conduct the hearing and consider all objections or protests to the assessment, if any. The governing body may, thereafter, adopt, revise, reduce, or modify the assessment or charge, but may not increase the charge, or may overrule any and all objections. The determination of the governing body shall be final. This section shall not apply if the amount of the assessment is increased, or if the governing body makes any change in the areas subject to the assessment, compared to the prior year's assessment.

54984.8. After the making of a final determination pursuant to Sections 54984.5 and 54984.7 and after any required majority approval by the voter within affected territory the local agency shall cause the charge to be collected at the same time, and in the same manner, as is available to it under applicable law.

54984.9. (a) A local agency may, by resolution or ordinance, provide that charges that have become delinquent, together with interest and penalties thereon, are a lien on the property when a certificate is filed in the office of the county recorder pursuant to subdivision (b), which lien has the force, effect, and priority of a judgment lien.

(b) A lien under this section attaches when the district files for recordation in the office of the county recorder a certificate specifying the amount of the delinquent charges together with interest and penalties thereon; the name of the owner of record of the property which is subject to the charges; and the assessor's parcel number and legal description of the property. Within 30 days of receipt of payment of all amounts due, including recordation fees paid by the district, the district shall file for recordation a release of the lien.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 835

An act to add Sections 4764.1, 4764.2, 4764.3, and 4764.4 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 4764.1 is added to the Vehicle Code, to read:

4764.1. The Legislature finds that there is a significant loss of revenue to local governments due to the present inability of the department to collect unpaid parking violation penalties in cases where the ownership of a vehicle has been transferred. It is, therefore, the intent of the Legislature that the department, in cooperation with parking citation processing agencies, shall develop a plan to establish a pilot program by which parking violation penalties and administrative fees may be collected without regard to whether a vehicle is transferred.

SEC. 2. Section 4764.2 is added to the Vehicle Code, to read:

4764.2. Notwithstanding Section 4764, the department shall, in

cooperation with parking citation processing agencies, develop a plan to establish a pilot program by which parking penalties and administrative fees may be collected without regard to whether a vehicle is transferred. The plan shall address, but not be limited to, a review of the following:

(a) A method by which parking violators with 25 or more notices of parking violations on file with the department can be identified and be made responsible for payment of their parking penalties. The director may establish a lower numerical threshold if it is determined to be cost-effective.

(b) A system by which a common identifier can assist the department in identifying any vehicles owned by the same owner if a common identifier is deemed desirable.

SEC. 3. Section 4764.3 is added to the Vehicle Code, to read:

4764.3. The department, pursuant to Section 4763, shall assess a fee to cover the costs of the pilot program.

SEC. 4. Section 4764.4 is added to the Vehicle Code, to read:

4764.4. The department shall report on the plan developed pursuant to Section 4764.2 to the Legislature on or before March 31, 1989. The report shall examine whether the costs of the pilot program can be recovered from fees and whether the pilot program will result in a net revenue gain for all local agencies which participate in the program. If the pilot program is shown to be cost-effective, then the department may request funding for the program in the 1989–90 Governor's Budget. Upon appropriation of funds for the pilot program in the 1989–90 Budget Act, the department may implement a 24-month pilot program on or before December 31, 1989. The department shall submit an interim report to the Legislature evaluating the results of the pilot program by January 1, 1991, and a final report, with recommendations, by July 1, 1991.

CHAPTER 836

An act to repeal and reenact the Solano County Flood Control and Water Conservation District Act (Chapter 1656 of the Statutes of 1951), relating to the Solano County Flood Control and Water Conservation District.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

PART 1. INTRODUCTORY PROVISIONS

CHAPTER 1. SHORT TITLE

SECTION 1. This act shall be known and may be cited as the Solano County Flood Control and Water Conservation District Act.

CHAPTER 2. LEGISLATIVE INTENT

SEC. 20. The Legislature hereby finds that water problems in the County of Solano require countywide water conservation, development of water resources, and flood control; that these problems are not general or statewide; that the county for many years has made investigations and engineering surveys of the county's water resources by private, public, and federal engineers; that various water districts and municipalities now exist within portions of the county which have acquired property and works, have developed a limited water supply, and have incurred indebtedness, but have been and are unable alone to economically develop an adequate water supply; that the existing Solano County Flood Control and Water Conservation District has made progress in addressing the water needs of the county; that to adequately and feasibly conserve the water supply and control the floods of the county, it is necessary to continue to have a political entity coextensive with the geographical limits of the entire county; that there is increasing demand for water within the county for municipal, irrigation, military, and other uses, and there is an urgent need that an adequate supply of water be obtained. Investigation has shown conditions in the county to be peculiar to it and it is hereby declared that general law cannot be applicable to the county and that the enactment of this special law is necessary for the conservation, development, control, and use of water for the public good and for the protection of life and property therein.

CHAPTER 3. CREATION AND TERRITORY

SEC. 30. A district is hereby created to be known as the Solano County Flood Control and Water Conservation District. The district shall consist of all of the territory within the County of Solano lying within the exterior boundaries thereof, the area of the Davis Campus of the University of California, and that portion of the territory of any participating agency lying outside the exterior boundaries of the County of Solano.

CHAPTER 4. DEFINITIONS

SEC. 40. "Board of directors" or "board" means the board of directors of the district.

SEC. 41. "Board of supervisors" means the board of supervisors of the county.

SEC. 42. "County" means the County of Solano of the State of California.

SEC. 43. "District" means the Solano County Flood Control and Water Conservation District.

SEC. 44. "Elector" or "qualified elector" or "voter" or "qualified voter" means any registered voter residing within the district.

SEC. 45. "May" is permissive and "shall" is mandatory.

SEC. 46. "Member unit," for the purpose of the contract between the United States and the Solano County Flood Control and Water Conservation District for Water Service and for Operation and Maintenance of Certain Works of the Solano Project by the district, dated June 7, 1955, means participating agency as defined in Section 47.

SEC. 47. "Participating agency" means any county water district, reclamation district, irrigation district, water conservation district, municipality, flood control district, other agency, city, or political subdivision of the state empowered by law to appropriate water and to deliver water to water users, the territory of which lies principally within the county, which partipating agency enters into a contract with the district for (a) the repayment in whole or part to the district or any other person, corporation, public agency, the state, or the United States of any or all of the construction costs of any works constructed by or on behalf of the district, (b) the underwriting in whole or part of any or all of those construction costs, (c) the repayment in whole or in part to the district or any other person, corporation, public agency, the state, or the United States of any or all of the cost of furnishing water or a water supply to the district or the underwriting in whole or in part of that cost, or (d) the payment in whole or in part for water to be furnished or sold to that participating agency by the district, the state, or the United States.

SEC. 48. "Participating zone" means one or two or more zones benefiting from the same project or projects.

SEC. 49. "Project" means a work and all of the activities related to or necessary for acquisition, construction, operation, and maintenance of a work, including, but not limited to, planning, design, financing, and administration.

SEC. 50. "State" includes the State of California and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the State of California.

SEC. 51. "United States" includes the United States of America, and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the United States of America.

SEC. 52. "Work" or "works" includes, but is not limited to, any of the following: reservoirs, dams, and all conduits and facilities for the control, conservation, diversion, and transmission of water for beneficial uses; drains, levees, and all ditches and facilities for the control and disposal of drainage, storm, and flood waters within the district; powerplants, transmission lines, and all facilities for the generation and distribution of electric power; and all necessary property interests and rights-of-way.

SEC. 53. "Zone" means an improvement district, assessment

district, or zone of benefit of the district.

SEC. 54. "Zone of benefit" means a zone of benefit formed under Part 6 (commencing with Section 600).

CHAPTER 5. GENERAL PROVISIONS

SEC. 60. Neither the establishment and continuation of the district, nor any provision of this act shall affect, restrict, or supersede the existence, property, right, or power of any municipality, or public agency now or hereafter established in or partially within the limits of the district for the purpose or purposes in whole or part of flood control or for the purpose or purposes in whole or part of reclamation, conservation, storage, distribution, sale, use, or development of water. The Legislature because of conditions special to the county hereby expressly declares its intent to permit within the limits of the district the existence of more than one public agency or municipality having similar powers over similar territory in regard to flood control, reclamation, water conservation, storage, distribution, sale, use, and development.

SEC. 61. The formation of the district or the enactment of this act shall not impair the vested right of any person, association, corporation, municipality, or public agency in or to water or the use of water.

SEC. 62. The legal title to all property acquired under this act shall immediately and by operation of law vest in the district, and shall be held by the district, in trust for, and is hereby dedicated and set apart to, the uses and purposes set forth in this act. The board of directors may hold, use, acquire, manage, occupy, and possess the property, as provided in this act. The board of directors may determine, by resolution duly passed and entered in its minutes, that any property, real or personal, held by the district is no longer necessary to be retained for the uses and purposes thereof, and may thereafter sell or otherwise dispose of the property, or lease the same, in the manner provided by law for the disposition and sale of property of counties, subject to Section 206, except that the title to water rights or water conservation works shall not be conveyed or alienated except by a vote of the electors at an election held for that purpose.

SEC. 63. The rights-of-way, ditches, flumes, pipe lines, and other conduits, drains, water, water rights, reservoirs, dams, franchises, works, and all other property used for the purposes of the district and belonging to it shall not be taxed nor assessed for state, county, municipal, or any district purpose.

SEC. 64. Any judicial action or proceeding to attack, review, set aside, void, annul, or challenge the validity or legality of the formation of a zone, any contract entered into by the district or a zone, any bond or evidence of indebtedness of the district or a zone, or any assessment, rate, or charge of the district or a zone shall be commenced within 60 days of the effective date thereof.

The action or proceeding shall be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

The district may bring an action pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any of the matters referred to in this section.

SEC. 65. Claims for money damages against the district shall be governed by Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed by those provisions or by other statutes or by ordinances or regulations authorized by law and expressly applicable to those claims shall be prepared and presented to the board, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county.

SEC. 66. The boundaries of the district shall be automatically changed in the event of a change in the boundaries of the county, and any such boundary change shall not be governed by the Cortese-Knox Local Government Reorganization Act of 1985 (Division 3 (commencing with Section 56000) of Title 6 of the Government Code).

SEC. 67. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

PART 2. INTERNAL ORGANIZATION

CHAPTER 1. BOARD OF DIRECTORS

SEC. 200. (a) The board of directors shall consist of 15 directors. Each member of the board of supervisors of the county shall serve as a director. The mayor of each of the Cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo shall serve as a director representing each city.

(b) Each city referred to in subdivision (a) shall appoint an alternate director to serve in the place of the mayor. The alternate director shall be a member of the city council during the term of appointment.

(c) The Solano Irrigation District, the Maine Praire Water District, and Reclamation District No. 2068 shall each appoint a director, which director shall be a member of the governing board of the appointing agency during the term of the appointment. Each agency shall further appoint an alternate director to serve in the place of the director. The alternate may be a member of the governing board of, or the manager of, the appointing agency. The directors and alternates who are appointed shall serve at the pleasure

of the appointing board.

SEC. 201. Directors and alternates shall be entitled to receive from the district the sum of fifty dollars ($50) for each meeting attended as a member of the board, not to exceed one hundred dollars ($100) per month for all meetings attended, plus actual, necessary and reasonable traveling expenses. The basis for compensation of the directors, and the amount thereof, may be altered only by a two-thirds vote of the directors.

SEC. 202. The board may adopt reasonable rules and regulations to carry out its powers and duties.

SEC. 203. The board shall elect a chairperson and a vice chairperson. The chairperson shall preside at all meetings of the board and the vice chairperson shall act as chairperson in the absence of the chairperson elected by the board. In the case of the absence or inability to act of both the chairperson and the vice chairperson, the directors present shall, by an order entered in their records, select one of their number as temporary chairperson. Any member of the board may administer oaths when necessary in the performance of that member's official duties.

SEC. 204. A majority of the members of the board shall constitute a quorum for the transaction of business, but no act of the board shall be valid or binding unless a majority of all members concur therein. Such a majority vote of the board shall be sufficient to transact business of the district except as otherwise provided in this act.

SEC. 205. A vote of two-thirds of the members of the board shall be required for passage by the board of any of the following measures:

(a) A measure which provides for a renewal of a water supply contract by the district to a participating agency allocating a decreased supply or lower priority to water than is provided by a contract existing on January 1, 1988. Notwithstanding this vote requirement, the board may take no action which would impair the existing contractual rights of a participating agency.

(b) A measure which provides for a different pricing formula than that utilized by the district on January 1, 1988, in that participating agency's contract for water unless the affected participating agency consents in writing to the change.

(c) A measure which provides for the incurrence of a debt, except within a zone as described in Part 6 (commencing with Section 600), payable over more than one year and in an amount in excess of two hundred fifty thousand dollars ($250,000).

(d) A measure which provides for the sale, distribution, or disposal of major capital assets of the district which are valued by the board in an amount in excess of two hundred fifty thousand dollars ($250,000).

CHAPTER 2. ADVISORY COMMISSION

SEC. 220. There is hereby created an advisory commission to advise the board of directors. The advisory commission shall consist of one representative appointed by each of the Cities of Benicia, Dixon, Fairfield, Rio Vista, Suisun City, Vacaville, and Vallejo. The board of supervisors of the county, the Solano Irrigation District, the Maine Prairie Water District, and Reclamation District No. 2068 shall each appoint one representative. The advisory commission shall meet at least monthly, and shall make reports and recommendations to the board of directors. The members of the advisory commission shall be the chief administrative officers of the agency which the member represents or a chief of technical staff of the agency. An alternate member of the advisory commission shall also be appointed by each agency, who shall work under either the chief administrative officer or the chief of technical staff of the appointing agency.

CHAPTER 3. OTHER OFFICERS AND EMPLOYEES

SEC. 260. The board may employ agents, superintendents, engineers, attorneys, and employees necessary to carry out this act. The board shall appoint a general manager and may appoint a treasurer, secretary, and such other officers, agents, and employees for the board as in its judgment may be deemed necessary, prescribe their duties, and fix their compensation. The officers, agents, and employees so appointed shall hold their respective offices or positions at the pleasure of the board.

SEC. 261. In addition to those officers and employees employed by the board pursuant to Section 260, the board may provide that any employee of the county or of an entity having representation on the board of directors, which it may designate, may be an ex officio employee of the district, and shall perform, unless otherwise provided by the board, the same various duties for the district as for his or her employer in order to carry out this act.

SEC. 262. In addition, the board may contract for the provision of services by participating agencies or other public or private agencies as necessary to carry out this act. The work shall be provided in the most efficient and economical manner. Contracts for the provision of services in effect as of January 1, 1989, shall be continued by the district regardless of the terms of this section unless the board determines, by a two-thirds vote, that the contracting party has evidenced a failure to perform the required services in a competent, economic, or expeditious manner. When entering into new contracts for operation or maintenance and repair of facilities of the district for which the district is obligated by contract to operate or maintain and repair, the district shall give preference to the participating agency which is the primary beneficiary and user of the facility, in the case of water delivery and storage facilities. In the case of flood control and drainage works, preference shall be

given to the participating agency in which the largest portion of the flood control project is located. If the participating agency entitled to that preference is unwilling to provide the required operation or maintenance and repair, or both, or if the board determines by a two-thirds vote of its members that the work may be performed in a more economical, competent, or expeditious manner by an entity other than the participating agency entitled to that preference, the board may provide for the contracts for the performance of operation or maintenance and repair of facilities, or both, with other participating agencies, the county, or public or private contractors. Only if no other participating agency and neither the county nor a qualified public or private contractor is willing to contract for the performance of those services in a competent, economical, and expeditious manner, may the board provide for the performance of that work directly by the district.

PART 3. ELECTIONS

CHAPTER 1. DISTRICT ELECTIONS

SEC. 300. All district elections shall be conducted in conformance with the Uniform District Election Law (Part 3 (commencing with Section 23500) of Division 14 of the Elections Code), to the extent applicable, unless otherwise provided in this act.

SEC. 301. Except as otherwise provided in this act, the county clerk shall conduct all elections within the district. The board may, by resolution, determine that the district shall conduct an election, and an officer designated by the district shall perform the duties of the county clerk in conducting the election.

SEC. 302. The board may, by resolution, direct that any district election be conducted by all-mailed ballot under the procedure for mailed ballot elections set forth in the Elections Code. If an election is to be conducted by all-mailed ballot, it may be conducted in accordance with Section 23509.5 of the Elections Code or it may be conducted on any Tuesday, unless it is the day before or the day after a state holiday, or unless it is one of the established election dates set forth in Section 2500 of the Elections Code.

SEC. 303. Elections shall be held on one of the established election dates set forth in Section 2500 of the Elections Code or, if conducted by all-mailed ballot, in the manner provided in Section 302.

CHAPTER 2. ZONE ELECTIONS

SEC. 320. In the alternative to calling an election within a zone under the Uniform District Election Law, the board may call a zone election to vote on proposals for the issuance of bonds, the approval of projects, or the levy of benefit assessments affecting the zone. A zone election may be held on any Tuesday, unless it is the day before

or the day after a state holiday, or unless it is one of the established election dates set forth in Section 2500 of the Elections Code. A zone election shall be conducted in the manner prescribed by the board in its resolution calling the zone elections. The resolution shall, among other things, set forth the notice requirement for the election, and whether the election will be conducted by all-mailed ballot. Unless otherwise provided in the resolution, the zone election shall be conducted in the same manner as district elections.

PART 4. POWERS AND PURPOSES

CHAPTER 1. POWERS GENERALLY

SEC. 400. The district shall have the powers enumerated in this act and such other powers as the law may provide. The powers of the district, except as otherwise provided, shall be exercised by the board of directors.

SEC. 401. The district has perpetual succession.

SEC. 402. The district may adopt a seal and alter it at its pleasure.

SEC. 403. The district may sue and be sued, except as otherwise provided in this act or by law, in all actions and proceedings in all courts, commissions, boards, and tribunals of competent jurisdiction.

SEC. 404. The district may, within or outside the district within the state, acquire by purchase, condemnation, or other legal means all property or rights in property necessary or proper for district works and purposes of the district. Eminent domain proceedings may be brought by the district for these purposes pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure. No action in eminent domain to acquire property or interests in property outside the boundaries of the county shall be commenced unless the board of supervisors of each affected county has consented to the acquisition by resolution.

SEC. 405. The district may take, absolutely or on condition, by grant, purchase, gift, devise, or lease, with or without the privilege of purchasing, or otherwise, real and personal property of any kind, or any interest in real property, within or without the district, necessary to the full exercise of its powers, and to hold, use, enjoy, and lease or dispose of the property or interest.

SEC. 406. The district may make contracts, employ labor, and do all acts necessary for the full exercise of its purposes and powers. The board may cause construction or other work to be performed or carried out by contracts or by the district with its own forces as provided in this act.

SEC. 407. The district may, subject to any limitations in this act, do any and every lawful act necessary to be done, that sufficient water may be available for any present or future beneficial use or uses of the lands or inhabitants within the district, including, but not limited to, irrigation, domestic, fire protection, municipal,

commercial, industrial, and all other beneficial uses.

SEC. 408. The district may control flood and storm waters within the district and the flood and storm waters of streams outside of the district which flow into the district; conserve those waters by storage in surface reservoirs; divert and transport those waters for beneficial uses within the district; release those waters from surface reservoirs to replenish and augment the supply of waters in natural underground reservoirs; and otherwise reduce the waste of water and protect life and property from floods within the district.

SEC. 409. The district may, within or outside the district, construct, purchase, lease, or otherwise acquire works, and purchase, lease, appropriate, or otherwise acquire surface waters and water rights, useful or necessary to make use of water for any purposes authorized by this act.

SEC. 410. The district may, subject to Section 262, operate, repair, improve, maintain, renew, replace, and extend all works and property of the district.

SEC. 411. The district may make surveys and investigations for works and projects and of the water supply and resources of the district, and carry on and perform technical and other investigations of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to water supply, water, water rights, control of floods, and use of water both within and outside the district, subject to the limitation set forth in Section 416. For these purposes the district shall have the right of access through its authorized representatives to all properties within the district.

SEC. 412. The district may construct its pipes, pipe lines, canals, flumes, tunnels, and other conduits, along, under, or across any public road, street, alley, avenue, highway, or sidewalk, or across any stream of water, watercourse, railway, canal, ditch, or flume which the route of those pipes, pipe lines, canals, flumes, tunnels, or other conduits may intersect or cross; provided the works are constructed in such manner as to afford security for life and property. The district shall restore at its own expense any such crossings and intersections to their former state as near as may be, or in a manner not to have impaired unnecessarily their usefulness. Every company, municipality, or public agency whose right-of-way shall be intersected or crossed by those pipes, pipe lines, canals, flumes, tunnels, or other conduits shall unite with the district in forming these intersections and crossings and grant the rights necessary therefor to the district.

SEC. 413. There is hereby granted to the district the right-of-way for the location, construction, and maintenance of any and all of its works in, over, and across public lands of the state, not otherwise disposed of or in use, not in any case exceeding in length or width that which is necessary for the construction of the works and adjuncts or for the protection thereof. Whenever any selection of a right-of-way for those works or adjuncts thereto is made by the district, the board shall transmit to the State Lands Commission, the

Controller, and the recorder of the county in which the selected lands are situated, a plat of the lands so selected, giving the extent thereof and the uses for which the lands are claimed or desired, duly verified to be correct. If the State Lands Commission approves the selection so made, it shall endorse its approval upon the plat and issue to the district a permit to use those rights-of-way and lands.

SEC. 414. The district may, in addition to the other powers vested in it by this act, acquire, maintain, operate, and install recreational facilities or landscaping in connection with any dam, reservoir, flood control, or storm drainage facility or work of improvement, or other property owned or controlled by the district, or in connection with any flood control or water conservation project in which the district participates in the cost of construction, operation, or maintenance thereof or in the cost of land acquisition thereof.

SEC. 415. The district may undertake engineering investigations and report on any existing or potential flood control, water supply, or groundwater problems, in all or any portion of the district, except that no study shall be conducted within the boundaries of those cities or agencies listed in Section 200 which relates to a power held by that city or agency without its consent or without authorization by a two-thirds vote of the board.

SEC. 416. By a two-thirds vote of the board, the district may construct, operate, and maintain works to develop electric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its own purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than a public utility or public agency. The power to construct, operate, and maintain works to develop electric energy shall not include, and nothing in this act shall be construed to permit, the acquisition of property already employed in the generation of electric energy for public utility purposes, or the interference by the district in any existing contracts for the production or sale of electric energy, except by mutual agreement between the district and the owner of that property, or the contracting parties.

SEC. 417. The district may disseminate information to the public concerning the rights, properties, and activities of the district.

CHAPTER 2. CONTRACTS WITH PARTICIPATING AGENCIES

SEC. 430. The district may enter into contracts with any participating agency or with any municipality, public agency, or other political subdivision which thereby becomes a participating agency for any of the following purposes:

(a) The lease, purchase, or other acquisition by the district of any of the works of the participating agency or of the state or the United States.

(b) The construction of works by the district for the conservation, regulation, or transmission of water for the benefit of the

participating agency, or for the generation and transmission of electric power, or for the furnishing or sale by the district, the state, or the United States to the participating agency or by the participating agency to the district of water or a water supply for any purpose; or for the assumption, by either the district or the participating agency, as principal or guarantor or underwriter of indebtedness incurred on account of works or water furnished or sold to the district or participating agency.

(c) The sale, lease, or other disposition of water, water rights, and water storage facilities, or interests therein, by the district or by the participating agency.

(d) The operation of works and the delivery of water by the district or by the participating agency subject to the following:

(1) The works shall be operated in conformity with the vested rights and appropriations of each of its participating agencies having an interest therein.

(2) There shall be delivered to each participating agency all water to which the participating agency is entitled under the contract entered into by the district and the participating agency.

(3) There shall not be delivered to any participating agency more water than the amount to which the participating agency is entitled under the contract entered into by the district and the participating agency, without the prior written consent of the district, except that the lease of water from any reservoir in the amount required to satisfy any vested right shall not constitute a delivery of water, and that any quantity of water assigned under Section 435 or released under Section 436 by one participating agency to another participating agency shall be delivered to the latter.

(e) The construction, operation, maintenance, and repair of flood control works and facilities.

SEC. 431. The district may contract to sell, lease, or otherwise dispose of water or of any right to use the works of the district for the conservation, control, or transportation of water, only to participating agencies or to agencies of the State of California and of the United States for use within the boundaries of the district. The district may fix rates and charges for those purposes. The district may contract for those purposes with other parties only upon written approval of all participating agencies having right to the water or interest in the works for which a contract is being entered into.

SEC. 432. Notwithstanding any other provision of this act, the district may suspend delivery of water conserved by the district or obtained by, or on behalf of, the district or participating agency to any participating agency during the period which the participating agency is delinquent in its payments for, or obligations due in respect of, that water under any contract entered into by it with the district upon 30 days' written notice, except that no suspension of water shall be made unless the participating agency has been delinquent for a period of 90 days from the date of billing from the district to the participating agency.

SEC. 433. (a) The liability of each participating agency, as distinguished from the liability of its taxpayers and property therein for taxes, or assessments levied by the district for district purposes, shall be limited to that portion of the total cost for water or water supply or to that portion of the total cost of construction and the operation and maintenance cost of works acquired or constructed by or on behalf of the district or participating agency which the participating agency agrees to bear.

(b) The liability of each participating agency shall be set forth fully in a written contract which shall be legally approved by that participating agency in accordance with the laws governing the participating agency. No such contract shall be altered or modified without the consent of the district and the legal approval of the participating agency.

(c) Each contract may provide, among other things, the following:

(1) The total capital obligation which the participating agency agrees to bear.

(2) The minimum annual payment which the participating agency shall make in amortization of its capital obligation.

(3) The quantity or pro rata portion of water which shall be delivered to, or held in storage for, the participating agency.

(4) The basis of allocation of operation and maintenance costs to be borne by the participating agency.

(5) The quantity of water supply or water agreed to be acquired by, or furnished or sold to, the participating agency and the cost thereof to the participating agency.

(d) Each participating agency contract shall be fair and equitable to each contracting party, and no participating agency shall receive any undue advantage over any other participating agency having proper regard for all factors and conditions involved.

(e) Each participating agency contract shall be executed in accordance with the laws governing that participating agency.

SEC. 434. (a) In the event of any reduction in the principal of any debt of the district underwritten by one or more participating agencies, other than by payment thereof, the amounts to be paid to the district by each participating agency in amortization of its remaining portion of the debt shall be reduced proportionately so that the relative obligations of each participating agency shall be unchanged.

(b) In the event of any reduction in the rate of interest being paid on any part of a debt of the district for which one or more participating agencies are responsible, the amounts to be paid the district by each participating agency shall be reduced proportionately so that the relative obligation of each participating agency remains unchanged in respect to its obligation to pay any remaining interest.

SEC. 435. Any participating agency may reduce its obligations under its contract with the district by assignment to another

participating agency of any part of its right to receive water under its contract, subject to the following:

(a) The assignment is legally approved, in accordance with the laws governing the participating agency, by each participating agency which is a party to the assignment.

(b) The total of all payments to be made by the participating entities to the district shall not be reduced by virtue of the assignments.

(c) The assignor participating agency may be required by the district to guarantee the payments assumed by the assignee participating agency.

SEC. 436. (a) Any participating agency may elect that any water to which it is entitled be held in storage in the district's reservoirs if there is unfilled capacity in the reservoirs from which the water would otherwise be withdrawn for delivery to it. If two or more participating agencies desire simultaneously to store water and there is not sufficient capacity to accommodate those participating agencies, the storage capacity shall be apportioned between them in accordance with the amount of capital cost of the reservoir they have respectively underwritten, or in accordance with the amount of water they have respectively contracted to purchase during the period of that storage.

(b) Any participating agency may release for the use of any other participating agency any amount of water which may then be held temporarily in storage for its account, and in that event, the district shall deliver that water to the other participating agency, but that delivery shall be deemed to be for the account of the participating agency releasing the water.

SEC. 437. (a) If any capital asset of the district is sold or otherwise disposed of, the net proceeds therefrom shall be distributed to the participating agencies, or applied against any liability of the participating agencies to the district, as by contract may be provided, in a proportion which the amount contributed by each participating agency to the cost of the capital asset bears to the total cost of the capital asset.

(b) If any liability on the part of the district or its participating agencies for the original cost or any subsequent improvement or refinancing of the capital asset is not completely extinguished at or before the time of the sale or other disposal thereof, the district may apply as much of the proceeds of the sale toward the extinguishment of that liability as may be necessary. In extinguishing the liability, the proceeds of the sale shall be applied only as the interests and liabilities of the district and its participating agencies shall appear.

CHAPTER 3. CONTRACTS WITH THE UNITED STATES AND OTHER AGENCIES

SEC. 450. (a) The district may cooperate, act in conjunction, and contract with the United States, the state, municipalities, and public

agencies of any kind, in the purchase and sale of water, the acquisition of water or a water supply, the construction of any works for the controlling of flood or storm waters in the district, or for the protection of property, watersheds, watercourses, highways, and life, or for the purpose of conserving and transporting those waters for beneficial use, and for the use, operation, management, purchase, and ownership of the works. The district also may make and perform any agreement with the United States, the state, any county, municipality, public agency, public corporation, person, or any combination of them for the acquisition, disposition, or operation of any property or works or water or water supply.

(b) Any county water district, water conservation district, municipality, flood control district, or other public agency or political subdivision of the state authorized by law to appropriate water and deliver water to users may (1) cooperate, act in conjunction, and contract with the district for all the purposes for which the district is authorized to cooperate, act in conjunction, and contract with public agencies, municipalities, and political subdivisions, and (2) carry out the terms of those contracts.

SEC. 451. Notwithstanding any other provision of this act, the district may contract with agencies of the state and the United States in all respects as the district may contract with its participating agencies, except that any such contract with agencies of the state or the United States shall provide that any payment to be made to the district shall be in advance of any service, delivery, construction, or use to be provided by the district under the contract.

SEC. 452. The district may cooperate and contract with the United States under the Federal Reclamation Act of 1902, and all acts amendatory or supplementary thereto, or any other act of Congress permitting cooperation or contracting for the purposes of constructing works, whether for irrigation, drainage, or flood control, or for the acquisition, purchase, extension, operation, or maintenance of the works, or for a water supply for any purpose, or for the assumption as principal or guarantor of indebtedness to the United States, or for carrying out any of the purposes of the district, and may carry out and perform the terms of any contract so made. For those purposes the district shall have, in addition to the powers expressly set forth in this act, all powers, rights, and privileges possessed by irrigation districts, as set forth in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, not inconsistent with this act.

SEC. 453. (a) Each contract providing for repayment of the cost of any works, the purchase of any works, or for the payment for any water or water supply, which is entered into with the United States pursuant to this act, shall be authorized at an election, unless by a resolution adopted by a two-thirds vote of the members of the board, the board shall determine that all liabilities of the district thereby incurred can be repaid and liquidated, both as to principal and interest, from revenue derived from taxes or special benefit

assessments, or both, levied pursuant to this act or from payments to be made to the district by participating agencies pursuant to written contracts which at the time of the board's determination provide for the payment of whatever amounts may be necessary to amortize the portion of that cost underwritten by the participating agencies or provide for the payment of whatever amounts may be necessary to pay the portion of the cost of any water or water supply to be furnished or sold to the participating agencies. Upon the adoption of that resolution the board may, on behalf of the district, without the necessity of an election, enter into the repayment contract, contract for the purchase of any works, or contract for the purchase of water or a water supply with the United States, subject to all provisions of this act applicable to those contracts, except the provisions requiring an election to authorize the contracts.

(b) Notice of any election shall contain a statement of the maximum amount of money to be payable to the United States for construction purposes and cost of water supply and acquisition of property, exclusive of penalties and interest, and a general statement of the property, if any, to be conveyed by the district pursuant to the contract.

(c) The ballots at any election shall contain a brief statement of the general purpose of the contract substantially as stated in the notice of election and the extent of the obligation to be assumed, with the words "Contract—Yes" and "Contract—No" or "Contract and bonds—Yes" and "Contract and bonds—No," whichever may be applicable. A favorable majority of two-thirds of the votes cast at the election shall be necessary to authorize the execution of the contract or issuance of the bonds, or both, except as set forth in subdivision (a).

SEC. 454. (a) All payments to the United States under any contract between the district and the United States, including payments of interest and principal on bonds deposited with or transferred to the United States, shall be paid so far as possible from revenue other than that derived from district taxes and assessments, unless otherwise provided by the contract or this act, and the balance, if any, of those payments shall be paid from revenue derived from annual taxes upon all taxable property within the district assessible for district purposes under the laws of the state and assessments levied pursuant to this act, and the property shall be and remain liable to be assessed and levied upon for the payments.

(b) Public land of the United States within the district shall be subject to assessment and tax for all purposes of contracts with the United States to the extent provided by the Act of Congress approved August 11, 1916, entitled "An act to promote reclamation of arid lands," or any other law which may be enacted by Congress, upon full compliance therewith by the district.

(c) All money collected pursuant to the contract with the United States shall be deposited to the credit of the district and held in a fund to be known as the "United States Contract Fund" to be used for

payments due to the United States under the contract.

CHAPTER 4. RULES AND REGULATIONS

SEC. 460. (a) All ordinances, resolutions, and other legislative acts of the district shall be adopted by the board, and certified to, recorded, and published, in the same manner, except as otherwise expressly provided in this act, as are ordinances, resolutions, or other legislative acts for the county.

(b) The initiative and referendum powers are hereby granted to the voters of the district to be exercised in relation to the enactment or rejection of district ordinances in accordance with the procedure established for the exercise of those powers in relation to counties.

SEC. 461. The board may adopt, by ordinance, reasonable rules and regulations to implement this act. Violation of any provision of the rules and regulations of the district or any ordinance of the district shall constitute a misdemeanor.

PART 5. FINANCIAL PROVISIONS

CHAPTER 1. FUNDS AND ACCOUNTS

SEC. 500. Any funds of the district may be deposited or invested and drawn out as provided in Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code. References in that chapter to "treasurer" shall mean the treasurer of the district. Funds of the district may also be deposited in the county treasury subject to disbursement as county funds are disbursed, except that the disbursal shall be pursuant to the provisions of this act, under the direction of the county treasurer or any other fiscal officer appointed by the board.

SEC. 501. The district may establish and maintain any separate funds and accounts which it deems necessary in carrying out its powers and purposes under this act.

SEC. 502. The district may make any transfers, for the purposes of a loan, from one fund to another fund of the district, or from one fund to another fund of a zone, upon terms and conditions that the board deems appropriate and to the extent permitted by law.

SEC. 503. The fiscal officer appointed by the board, or in the absence of any such appointment, the county treasurer may invest any funds of the district or zone in any security, debenture, bond, or deposit permitted by law for the investment of funds of a political subdivision of the state

CHAPTER 2. CONTRIBUTION OF FUNDS

SEC. 510. (a) The district may expend any or all of its funds as contributions in aid of any of the following:

(1) The construction or payment of the cost of works.

(2) The purchase or obtaining of water or a water supply.

(3) The payment of any liabilitity assumed as principal, guarantor, or underwriter on any indebtedness in connection with that construction, payment, purchase, or obtaining, if the works are constructed or the water or water supply is obtained for, or on behalf of, the district or its participating agencies.

(b) Unless, by resolution adopted by a two-thirds vote of the members of the board, the board determines that facts exist which make a different allocation preferable in the best interests of the district, the contributions in aid of construction or of the payment of works or any liability assumed in connection therewith shall be in proportion to and for the same purposes as payments made in the same year by each participating agency in amortization of a portion of the cost of the works, and the contributions in aid of the purchase or obtaining of water or a water supply or any liability assumed in connection therewith shall be in proportion to and for the same purposes as payments made in the same year by each participating agency.

SEC. 511. (a) Regardless of any other provision of this act, if in the judgment of the board the cost and expense of a supply of water to any participating agency is greater than the ability of that participating agency to pay, and the board finds that a supply of water to that participating agency will be of general benefit to the district, the board may by a two-thirds vote of its members direct the district to contribute from whatever funds may be available financial assistance to the extent that the board determines the district as a whole will be benefited. For the foregoing purpose, the board may contract with the participating agency or with the United States, the state, or any public agency supplying water or contracting to supply water to the participating agency, to make that contribution and assistance annually for such period of time as the board may determine, not to exceed 40 years.

(b) In addition to any other revenues that may be available to the district, not otherwise designated for any other purpose, the board may raise revenues as provided in this act for the purpose of raising sufficient moneys to pay this contribution of financial assistance.

SEC. 512. The district shall cause to be prepared on its behalf, by an independent auditor, quarterly financial statements and an annual audit disclosing the financial information of the district which shall promptly be made available to all participating agencies.

CHAPTER 3. GENERAL BOND PROVISIONS

SEC. 520. Any defect or irregularity in the proceedings in the calling or conduct of a bond election shall not affect the validity of the bonds authorized by the election.

SEC. 521. The board shall, pursuant to this act, prescribe by resolution the form of the bonds, which shall include a designation of the district, zone, or participating zone affected, and of the

interest payable on bonds. The interest on the bonds shall be payable annually or semiannually at the discretion of the board each and every year on a day and date at a place or places to be fixed by the board and designated in the bonds.

SEC. 522. The board may divide the principal amount of any issue into two or more series and fix different dates for the bonds of each series. The bonds of one series may be made payable at different times from those of another series. The maturity of each series shall comply with this section. The board may fix a date not more than two years from the date of issuance for the earliest maturity of each issue or series. The maximum term of the bonds to be issued shall not exceed 40 years.

SEC. 523. The bonds shall be issued in denominations as determined by the board.

SEC. 524. The principal on the bonds shall be payable on the date and at the place fixed in the bonds, and at the interest rate specified in the bonds, and shall be made payable annually or semiannually.

SEC. 525. The bonds shall be registered, numbered consecutively, contain an identification number, and shall be signed by the chairperson of the board and countersigned by the county treasurer or other fiscal officer of the district, and the seal of the district shall be affixed thereto. Either or both signatures may be printed, engraved, or lithographed.

SEC. 526. The proceeds from the sale of the bonds shall be paid into the district treasury, placed to credit of the project fund, and expended only for the purpose for which the bonds were issued.

In the alternative, the proceeds of the sale of the bonds may be placed in the treasury of the county to the credit of the district and the respective zone, or participating zones thereof, for the uses and purposes of the district, zone, or participating zones. The proper record of the transaction shall be placed upon the books of the county treasurer, and the bond proceeds shall be applied exclusively to the purposes and objects mentioned in the resolution calling for the bond election, subject to this act.

Payments from bond proceeds shall be made upon demands prepared, presented, allowed, and audited in the same manner as demands upon the funds of the district. Unexpended bond proceeds may be invested in any manner permitted by law for district investments, and any interest earned thereon shall be credited to the project fund and expended only for the purpose for which the indebtedness was created, including, but not limited to, operation and maintenance of the project.

SEC. 527. Whenever bonds have been authorized by the district, the proceeds of the sale thereof have been expended as authorized, and the board, by resolution, determines that additional bonds shall be issued for carrying out any of the purposes of this act, the board may again proceed as provided in this act for the issuance of additional bonds.

SEC. 528. The board may, by resolution, determine that new

bonds should be issued for the purpose of refunding any or all of the outstanding bonds of the district or any zone or participating zone. The procedure to issue refunding bonds shall be the same as the procedure used to issue the original bonds to be refunded. The refunding bonds may be issued and sold in the manner and form prescribed for an original issue of bonds, and may, if the holders of bonds of an original issue and the board so agree, be exchanged for the original bonds. The face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. The board may raise money to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue.

SEC. 529. Any bonds, original or refunding, may be made callable by resolution of the board adopted at, or prior to, the time of issuing the bonds, and providing for the calling and redemption of the bonds in any manner provided therein on any interest payment date prior to their stated maturity, at a premium not to exceed 6 percent above the par value thereof and accrued interest. If any bonds are so made callable, a statement to that effect shall be set forth on the face of the bond.

Notice of any redemption shall be published in the district pursuant to Section 6063 of the Government Code. The first publication of the notice shall be not less than 30 nor more than 90 days prior to the date for the redemption.

After the date fixed for the redemption, if the district has provided funds for payment of the principal and interest of the bonds so called, interest on the bonds shall thereafter cease.

SEC. 530. (a) The bonds may be sold at public or private sale at the determination of the board.

(b) The manner of making, submitting, and opening bids, and conducting the sale, and the terms thereof, if the sale is public, shall be determined by the board. The board may reject any and all bids which in the judgment of the board are not in the best interest of the district. If no bids are received, or if all bids are rejected, the board may either readvertise or sell the bonds at private sale.

SEC. 531. If a proposition for issuing bonds submitted at any election under this act fails to receive the requisite number of votes of the eligible voters voting at the election to incur the indebtedness for the purpose specified, the board shall not, for six months after the election, call or order another election in the same area for incurring indebtedness and issuing bonds under this act for the same objects and purposes.

SEC. 532. Any bonds issued under this act shall be free and exempt from all taxation within the State of California. It is hereby declared that the district is a local government within the meaning of Section 26 of Article XIII of the California Constitution.

SEC. 533. Any bonds issued under this act shall be legal investments for all trust funds, and for the funds of all insurance companies, banks, and trust companies, for state school funds, and

whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, the money or funds may be invested in bonds of the district, issued in accordance with this act, and whenever bonds of cities, cities and counties, counties, school districts, or municipalities may, by law now or hereafter enacted, be used as security for the performance of any act, the bonds of the district may be so used.

SEC. 534. The repeal or amendment of this act, or the dissolution or change in the boundaries of the district or any zone or participating zone shall not in any way affect or release any of the land in the district or zone from its liability on or from the obligations of any outstanding bonds or indebtedness or contracts for which the land is in any way security, until all of the bonds and outstanding indebtness and contracts have been fully paid or discharged.

SEC. 535. This chapter shall apply to the issuance of all bonds issued in accordance with this act.

CHAPTER 4. IMPROVEMENT BONDS

SEC. 540. The district may issue improvement bonds in accordance with, and pursuant to, the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code), the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code), or the Refunding Assessment Bond Act of 1935 (Chapter 732 of the Statutes of 1935).

CHAPTER 5. MELLO-ROOS BONDS

SEC. 550. The district shall have all the powers authorized by the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code).

CHAPTER 6. SPECIAL BENEFIT BONDS

SEC. 560. The board may determine that a bonded indebtedness should be incurred to pay the cost of any project which will confer a special benefit on the district as a whole, or a special benefit on any zone or participating zone. The principal of, and interest on, the special benefit bonds shall be paid by revenue derived from an annual benefit assessment levied on the land benefited by the project for which the bonds were issued in the manner set forth in Chapter 1 (commencing with Section 700) of Part 7.

Before adopting a resolution issuing special benefit bonds, the board shall adopt a resolution of intention stating the intention to

issue the special benefit bonds, the proposed amount of the bonds, the proposed denomination and maximum rate of interest of the bonds, a description of the proposed project for which the bonds shall be issued, and a description of the area which shall receive a special benefit from the proposed project and in which special assessments shall be levied to pay the principal and interest on the bonds.

The resolution shall also state the time and place for a hearing by the board on the proposal, at which time any interested person may appear and be heard.

SEC. 561. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

The hearing may be consolidated with a hearing on any other proposal affecting the same area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matter material thereto.

Upon the conclusion of the hearing, the board may abandon the proposal, or order the election on the proposal within the area affected.

The notice and hearing requirements in this chapter may be consolidating with any notice and hearing requirements undertaken by the district pursuant to Part 7 (commencing with Section 700).

SEC. 562. If the board determines by a resolution duly adopted by a two-thirds vote of the members of the board that a bonded indebtedness to pay the cost of acquisition or construction of any works for any of the purposes of the district or refunding any outstanding bonds should be incurred and can be repaid and liquidated as to both principal and interest from revenues derived from special benefit assessments or taxes, or both, levied pursuant to this act and from payments required to be made to the district by participating agencies pursuant to written contracts providing for the payment of whatever amounts may be necessary to amortize the portion of the cost underwritten by those participating agencies, the board may issue bonds of the district in such amounts as can be so repaid and liquidated. Thereafter the board may issue bonds without the necessity of an election, subject to all applicable provisions of this act pertaining to bonds and bonded indebtedness, except provisions requiring authorization of bonded indebtedness by an election.

SEC. 563. Any bonds issued under this chapter, and the interest thereon, shall be paid solely by revenue derived from taxes and special benefit assessments levied as provided in this act or from payments under contracts with participating agencies, or both. No zone nor the property therein shall be liable for the bonded indebtedness of any other zone, nor shall any moneys derived from special assessments or taxes in any of the several zones be used in

payment of principal, or interest, or otherwise, of the bonded indebtedness chargeable to any other zone.

CHAPTER 7. REVENUE BONDS

SEC. 565. If the board, by resolution, determines that bonds to pay for the acquisition or construction of any project or work for any purposes of the district, zone, or participating zone or for refunding any outstanding bonds, should be issued and can be repaid and liquidated as to both principal and interest from revenues designated by the board, the district may define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and issue revenue bonds all in the manner of and as provided in the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code). For that purpose the district is a "local agency," as defined in Section 54307 of the Government Code If the project or work is determined by the board to be for a zone or zones comprising less than all the district, the election at which the proposition to issue the revenue bonds is submitted shall be held only in the zone or zones. Proceeds from the sale of any such revenue bonds shall be expended only in the zone or zones in which the proposition to issue the revenue bonds is approved.

SEC. 566. (a) Notwithstanding Section 565, and subject to the requirements of subdivisions (b) and (c), if the board makes the determination authorized in Section 565, and each participating agency which would provide all or a portion of the revenues to repay the bonds to be issued also makes that determination by resolution, the district may define the project or work as an "enterprise" consistent with the definition in Section 54309 of the Government Code, and issue revenue bonds all in the manner of and as provided in the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code), except those provisions requiring authorization of the revenue bonds by election. For that purpose the district is a "local agency," as defined in Section 54307 of the Government Code.

(b) The board may proceed under this section for the issuance of bonds to pay for the refinancing, purchase, reconstruction, replacement, acquisition, or improvement of all or any part of the reservoirs, dams, conduits, appurtenances, and improvements necessary or related to the Noonan Reservoir project and the Solano project.

(c) The board may also proceed under this section for projects other than those set forth in subdivision (b), if it has submitted to the qualified voters of the district at a special election called by a resolution of the board a proposition as to whether the district may authorize and sell revenue bonds under this section. If a majority of the voters of the district voting on the proposition at the election vote in favor of the proposition, the board may proceed to issue and

sell revenue bonds as provided by this section for any purpose of the district or zone. If the proposition fails to carry at the election, the proposition shall not again be voted upon until at least six months have elapsed since the date of the last election at which the proposition was submitted. The resolution calling the election shall fix the date on which the election is to be held, the proposition to be submitted, the manner of holding the election and of voting for or against the proposition, and shall state that in all other particulars, the election shall be held and the votes canvassed as provided by law for the holding of elections within the district. The election may be held separately or may be consolidated with any other election authorized by law at which the voters of the district may vote. The resolution calling the election shall be published and no other notice of the election need be given.

CHAPTER 8. SHORT-TERM BORROWING

SEC. 570. The district may borrow money and incur indebtedness in the manner set forth in this chapter by action of the board and without the necessity of calling and holding an election in the district.

SEC. 571. Indebtedness may be incurred pursuant to this chapter for any purpose for which the district is authorized to expend funds.

SEC. 572. Indebtedness incurred under this chapter shall be evidenced by warrants or notes of the district payable not to exceed five years from their date and bearing interest at a rate not to exceed the maximum interest permitted for the sale of bonds of the district.

SEC. 573. The warrants or notes shall be issued by the district after the adoption by a two-thirds vote of all of the members of the board of a resolution setting forth the form of the warrants or notes, the maturity date of dates thereof, and the manner of execution thereof, except that if less than two hundred fifty thousand dollars ($250,000) shall be incurred, a majority vote of the board shall be sufficient to adopt the resolution.

SEC. 574. The board may, in its resolution, provide that the warrants or notes shall be subject to call and redemption prior to their stated maturity, at the option of the district, at such price as may be fixed in the resolution, not exceeding a premium of 6 percent of the par value of the warrants so subject to redemption. The resolution shall fix a method of giving notice of redemption to the holders of warrants to be redeemed and the price at which the warrants shall be subject to redemption. Warrants so subject to call and redemption prior to maturity shall contain a recital to that effect on their face.

SEC. 575. The warrants issued may be offered for private or public sale. Any public sale shall be upon notice inviting sealed bids therefor. The notice shall be given by publication once in a

newspaper of general circulation in the county, and the sale shall not be held before 10 days after publication. The board may reject all bids received on public sale and either readvertise or sell the warrants at private sale. The district may sell the warrants at a price below par value not to exceed 6 percent of the par value thereof.

CHAPTER 9. COUNTY FUNDING

SEC. 580. For the purpose of supplementing the general operating revenues of the district, upon request made by the board, the board of supervisors may grant funds from the county general fund to the district without reimbursement from the district, for use for any purpose of the district for which the county is itself authorized to expend funds, and including, but not limited to, expenses incurred or estimated to be incurred during the next fiscal year for each of the following:

(a) The administration of the district.

(b) The preparation of a comprehensive water resources and drainage management plan for the district for coordinating and managing the supply and distribution of water for all beneficial uses within the district and for coordinating and managing the control and disposal of drain, flood, and storm water within the district, and the formation of zones within the district for those purposes.

(c) The acquisition, development, distribution, and sale of water to the inhabitants of the district for all beneficial uses, including the acquisition of water rights by purchase or condemnation and the acquisition, construction, repair, operation, and maintenance of works therefor.

(d) The acquisition, construction, repair, operation, and maintenance of works for control and disposal of drain, storm, and flood water within the district.

SEC. 581. The district shall keep any county funds received pursuant to Section 580 in a separate account and, upon demand of the county, shall demonstrate that all expenditures made therefrom were used only for the purposes enumerated in this chapter.

CHAPTER 10. TAXING AUTHORITY

SEC. 585. The district shall have the power as provided by law to cause taxes to be levied for the purpose of paying any obligation of the district and to accomplish the purposes of the district and of this act.

SEC. 586. The provisions of the law of this state, prescribing the priority, time, and manner of levying, assessing, equalizing, and collecting county property taxes, including the sale of property for delinquency, and the redemption from that sale, and the duties of the several county officers with respect thereto, are, so far as they are applicable, and not in conflict with the specific provisions of this act, hereby adopted for the district and made a part hereof. The officers

shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

PART 6. ZONES

CHAPTER 1. FORMATION OF ZONES

SEC. 600. Improvement districts may be formed in the district in the same manner as improvement districts are formed in irrigation districts under Part 7 (commencing with Section 23600) of Division 11 of the Water Code. In the alternative, improvement districts may be formed in the same manner as zones of benefit. Assessment districts may also be formed in the district under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code), and the Municipal Improvement Act of 1913 (Division 12 (commencing with Section 10000) of the Streets and Highways Code). Improvement districts and assessment districts may be formed within the boundaries of any zone of benefit.

SEC. 601. If at any time it is desired to annex land to, or detach land from, a zone, a petition for that purpose signed by 100 percent of the record owners of the land to be annexed or detached shall be filed with the board, which shall commence proceedings thereon. In the alternative, the board may initiate a proposal for a zone annexation or detachment. The board shall conduct a hearing on the proposal with the same notice and in the same manner as the hearing on the affected zone. For purposes of protests and an election on the proposal, the affected area shall consist of the land to be annexed to, or detached from, the zone. The board may prescribe any reasonable condition to which the annexation or detachment shall be subject, if approved.

SEC. 602. The board may establish zones of benefit within the district without reference to the boundaries of other zones. The land comprising a zone of benefit need not be contiguous. A zone of benefit shall be established only with respect to a project for the benefit of the zone of benefit, and proceedings for the establishment of the zone of benefit may be conducted concurrently with, and as a part of, proceedings for the instituting of projects relating to the zone of benefit, the issuance of special benefit bonds, and the levy of benefit assessments.

SEC. 603. Whenever the board determines that a zone of benefit should be formed for the purposes set forth in this chapter, the board shall adopt a resolution of intention which shall state the following:

(a) The intention of the board to form the proposed zone of benefit.

(b) The purpose for which the proposed zone of benefit is to be formed and a finding that the participating agencies within the zone of benefit participating in the proposed facility or activity have consented to formation of the zone.

(c) The estimated expense of carrying out the purpose.

(d) That the special benefit assessment levied for carrying out the purpose shall be levied exclusively upon the lands in the proposed zone of benefit.

(e) That a map showing the exterior boundaries of the proposed zone of benefit, which map shall govern for all details as the extent of the proposed zone of benefit, is on file with the district secretary and is available for inspection by any interested person or persons.

(f) The time and place for a hearing by the board on the formation of the proposed zone of benefit, the extent thereof, the purpose for which it is to be formed, the benefit to land within the proposed zone of benefit from carrying out that purpose, the estimated expense of carrying out that purpose, if known, and any other matter relating to any of the foregoing.

(g) That at a time and place specified any interested person, including all persons owning land in the district or in the proposed zone of benefit, may appear and be heard.

SEC. 604. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 605. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal, or proceed with the proposal to create the zone without an election, unless, prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by more than 25 percent of the number of landowners within the proposed zone of benefit are filed with the board, in which case, an election shall be held on the proposal. If prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by more than 50 percent of the number of landowners within the proposed zone of benefit filed with the board, further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

SEC. 606. At the conclusion of the hearing, the board may, by resolution, order the zone of benefit formed for the purpose and with the exterior boundaries described therein. The resolution ordering formation shall state the estimated expense of carrying out the purpose described therein. The resolution shall also number and designate the zone of benefit substantially as "Zone of Benefit Number _____ of the Solano County Flood Control and Water Conservation District."

SEC. 607. Notwithstanding any other provision of this act, the

governing body of any participating agency at any time after the location and extent of zones and the percentages to be raised therefrom in each of the zones for the purpose of assessment have been finally fixed and determined by the board, but before the calling of any bond election if one is to be held, may, with the consent of the board, enter into a contract with the district to pay to the district for the benefit of the bond fund thereof, if a bond issue is to be authorized and bonds are to be issued, an amount which shall be equal to the total amount assessed against all zones situated entirely within the participating agency. Thereupon the charges against the zone or zones shall be canceled to the extent of that amount so agreed to be paid, and thereafter the voters residing within the zone or zones shall not be entitled to vote at any election held for the purpose of issuing bonds which would be repaid by the charges. The contract shall contain such other or additional provisions as the board shall deem necessary or advisable in order to protect the interest of the district and to substitute the contract in lieu and instead of the assessments which would have been levied within the participating agency or agencies.

CHAPTER 2. SELECTION OF PROJECTS

SEC. 610. The board shall determine which projects shall be carried out and shall determine, as to each project, that it is either: (1) for the common benefit of the district as a whole, (2) for the benefit of a single zone, whether in existence or not, or (3) for the common benefit of participating zones, whether in existence or not.

SEC. 611. The district may institute districtwide projects, projects for single zones, and joint projects for participating zones for studying, planning, financing, constructing, acquiring, maintaining, operating, extending, or repairing any work of common benefit to the district as a whole, to the zone, or to the participating zones, as the case may be. All powers of the district may be exercised or performed on behalf of and within a zone. Before proceeding with any project, the board shall adopt a resolution of intention setting forth the proposed boundaries, designating the benefited area, and stating its intention to undertake the project, together with an estimate of the cost of the project to be borne by the district as a whole, or a particular zone, or participating zones, as the case may be, and fixing a time and place for public hearing on the resolution. The resolution shall refer to a map or maps showing the general location of the project and shall generally describe the project. Notice of the hearing shall be given in the same manner as for a resolution of intention to form a zone of benefit. The proceedings on the resolution proposing the project may be consolidated with the proceedings on a resolution proposing formation of a zone of benefit.

SEC. 612. The hearing may be consolidated with a hearing on the formation of a zone of benefit, the issuance of special benefit bonds,

or the levy of benefit assessments affecting the same geographic area. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, order an election on the proposal within the area affected, or proceed with the proposal without an election, unless, prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by more than 25 percent of the number of landowners within the affected area are filed with the board, in which case, an election shall be held on the proposal. If prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by more than 50 percent of the number of landowners within the affected area are filed with the board, further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

PART 7. ASSESSMENTS

CHAPTER 1. BENEFIT ASSESSMENTS

SEC. 700. The district may levy benefit assessments on a districtwide basis or within any zone or participating zone. The benefit assessment may be levied in any manner which reasonably reflects the benefit that will accrue to the area being assessed for the purpose of the assessment, including, but not limited to, per acre or fraction thereof bases, or for benefit assessments related to drain, storm, or flood control purposes, the proportionate water runoff from each parcel assessed.

SEC. 701. (a) Benefit assessments may be levied for expenditures made, or expenditures estimated to be required during the next calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(1) The administration expenses of the district.

(2) The formation and administration expenses of any zone.

(3) Engineering and other expenses in connection with the investigation and preparation of a resource management plan or plan for any work or project.

(4) Acquisition or construction of any work or project.

(5) Operation and maintenance of any work or project.

(6) Payment of principal and interest on any bonds issued by the district.

(b) The revenues derived from the special benefit assessment shall be used for no purpose other than the purpose specified in the resolution at the time of levy of the assessment.

SEC. 702 The board may adopt a resolution of intention to levy an assessment on land only. The resolution shall set forth the

proposed amount of the special benefit assessment, manner of levy, purpose of the proposed assessment, the duration of the district's authority to levy the benefit assessment for the stated purpose, and shall designate by a map or otherwise the boundaries of the area proposed for assessment, and shall designate a time and place of hearing on the resolution.

SEC. 703. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the district pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

SEC. 704. At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution or any matters material thereto. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, order an election on the assessment within the area to be assessed, or levy the assessment without an election, unless, prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by more than 25 percent of the number of landowners within the area affected are filed with the board, in which case, an election shall be held on the proposal. If an election is held, a majority vote in favor of the benefit assessment shall be required to approve the proposed benefit assessment. If 12 or more registered voters reside within the area to be assessed, the vote shall be by the registered voters with each voter having one vote. Otherwise, the vote shall be by the landowners with each landowner having one vote for each acre of land or portion of an acre of land that he or she owns within the area. The proposal may take effect without a vote if there are less than 12 registered voters and a petition or other written consent to the levy of the assessment, executed by owners of at least 60 percent in area of the lands within the area to be assessed, is filed with the board during the hearing or any continued hearing. If, prior to the conclusion of the hearing, written protests against the proposal signed by more than 50 percent of the number of the landowners within the affected area are filed with the board, further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

SEC. 705. After its approval, the benefit assessment shall be levied, collected, and enforced at the same time and in the same manner as county taxes.

SEC. 706. The district may levy a special assessment pursuant to this part on property in any participating agency whenever that participating agency is delinquent in any payment due the district by the participating agency under any contract entered into by them. The district may levy these assessments regardless of whether

or not written protests against the proposed assessment signed by a majority in number of the eligible voters within the area to be assessed shall be filed with the board.

SEC. 800. Chapter 1656 of the Statutes of 1951 is repealed.

SEC. 801. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act, and because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 837

An act to amend Sections 69899.5 and 72190 of the Government Code, relating to courts.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 69899.5 of the Government Code, as added by Section 1.1 of Chapter 526 of the Statutes of 1986, is amended to read:

69899.5. In the County of Orange, a majority of the judges of the superior court may appoint the following officers and employees whose monthly salaries shall be:

Number of Positions	Title	Salary Range
4	Account clerk II	D36
1	Account clerk III	D41
1	Administrative services assistant II—superior court	ML4
6	Clerk III	D39
1	Assistant superior court executive officer	ML7
3	Court information clerk	D34
1	Director, mediation/ investigative services	A68
2	Executive secretary to the presiding judge	D49
19	Court mediator	A60
2	Information processing specialist III	D38
2	Juvenile court referee	80% of salary of superior court judge

9	Legal research attorney III	A69
2	Master calendar assistant	D43
10	Master calendar clerk	D38
2	Mediation/investigative services supervisor	A64
1	Principal account clerk	D42
1	Probate checker	A48
5	Probate examiner II	A55
1	Probate examiner III	A57
3	Probate investigator I	A51
1	Probate investigator II	A53
6	Secretary I	D37
1	Secretary III	D45
8	Senior judicial secretary	D45
1	Stenographer clerk II	D37
1	Storekeeper I	H10
2	Store clerk	H7
10	Superior court commissioner	85% of salary of superior court judge
3	Superior court division director	ML5
3	Superior court services coordinator II	A62
2	Superior court services supervisor I	D53
1	Superior court services supervisor II	D56
1	Supervising account clerk	D49
1	Supervising clerk I	D40
1	Supervising clerk II	D42
1	Supervising judicial secretary	D48
1	Supervising legal research attorney	A73
1	Systems analyst II	A55
2	Systems analyst IV	A64
10	Typist clerk II	D34

The references to a numbered salary range in this section are to the salary schedule in the salary resolution of the County of Orange.

All personnel appointed pursuant to this section shall serve at the pleasure of the majority of the judges and may at any time be removed by the majority of the judges in their discretion.

With the approval of the board of supervisors, the majority of the judges may establish such additional titles and pay rates as are required, and, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, assistants, and other employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Rates of compensation of all officers, assistants, and other employees, except those of court commissioners, may be adjusted by joint action and approval of the board of supervisors and a majority of the judges of the court.

All personnel shall be entitled to such step advancement, vacation, sick leave, holiday benefits, other leaves of absence, lump-sum payments for sick leave and vacation when separated from the service, inclusion in the retirement system of the County of Orange and other benefits as may be directed by rules adopted by a majority of the judges as are provided to county employees of such county.

Superior court commissioners shall be entitled to such benefits as may be directed by rules adopted by the majority of the judges.

Where statutes require implementation by local ordinances for the extension of such benefits to local officers and employees, these may be made applicable, by rule, to such employees.

Rules of the court may include other matters pertaining to the general administration of the court, including conditions of employment of such personnel. When such rules are adopted by a majority of the judges and filed with the Judicial Council they shall have the same status as other rules of court adopted pursuant to Section 68070.

When requested to do so by the court, the county shall furnish to the judges such services as may be required in connection with the recruitment and employment of such personnel.

All such personnel and judges shall be allowed actual traveling and necessary expenses incurred while engaged in the duties of their employment or office outside of the county.

SEC. 2. Section 72190 of the Government Code is amended to read:

72190. Within the jurisdiction of the court and under the direction of the judges, commissioners of municipal courts shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners of municipal courts shall possess the same qualifications the law requires of a judge and shall hold office during the pleasure of the court appointing them and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

Notwithstanding any other provision of law, a commissioner of a municipal court of any judicial district in Los Angeles County, San Diego County, San Bernardino County, Orange County, or Monterey County who has been duly appointed and has thereafter been retired for service, or a commissioner of a superior court in this state who has been duly appointed and has thereafter been retired for service, may be assigned by the presiding judge of a municipal court to serve as a court commissioner of such court for such periods of time as he is needed for the prompt and efficient discharge of the business of that court. While so serving, he shall be paid the full compensation of a court commissioner, payable as follows: He shall continue to receive his retirement allowance, and in addition the

county shall pay him the amount equal to the difference between such retirement allowance and such full compensation. Such employment shall not operate to reinstate him as a member of the county retirement system or to terminate or suspend his retirement rights or allowance, and no deductions shall be made from his compensation as contributions to the retirement system.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 838

An act to add Division 12.7 (commencing with Section 18000) to the Public Resources Code, relating to solid waste.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Division 12.7 (commencing with Section 18000) is added to the Public Resources Code, to read:

DIVISION 12.7. PLASTIC WASTE

CHAPTER 1. LEGISLATIVE FINDINGS

18000. The Legislature finds and declares the following:

(a) Facilitating the recycling of plastics is in the best interests of the state.

(b) This division is intended to require all plastic products sold in California on and after January 1, 1992, to have a molded label indicating the plastic resin used to produce the product.

CHAPTER 2. CONTAINERS AND PACKAGING

18010. "Rigid plastic container" means any formed or molded article comprised predominantly of plastic resin and having a relatively inflexible finite shape or form intended primarily as a single service container with a capacity of eight ounces or more and less than five gallons.

18011. "Rigid plastic bottle" means any rigid plastic container with a neck that is smaller than the container body with a capacity of 16 ounces or more and less than five gallons.

18012. "Label" means a code label described in Section 18015 molded into the bottom of the plastic product.

18015. (a) All rigid plastic bottles and rigid plastic containers sold in California on and after January 1, 1992, shall be labeled with a code which indicates the resin used to produce the rigid plastic bottle or rigid plastic container. Rigid plastic bottles or rigid plastic containers with labels and basecups of a different material shall be coded by their basic material. The code shall consist of a number placed inside a triangle, and letters placed below the triangle. The triangle shall be equilateral, formed by three arrows with the apex of each point of the triangle at the midpoint of each arrow, rounded with a short radius. The pointer (arrowhead) of each arrow shall be at the midpoint of each side of the triangle with a short gap separating the pointer from the base of the adjacent arrow. The triangle, formed by the three arrows curved at their midpoints shall depict a clockwise path around the code number. The numbers and letters used shall be as follows:

1 = PETt (polyethylene terephthalate)
2 = HDPE (high density polyethylene)
3 = V (vinyl)
4 = LDPE (low density polyethylene)
5 = PP (polypropylene)
6 = PS (polystyrene)
7 = OTHER (includes multilayer)

(b) A "7" shall appear below the resin abbreviation when the bottle or container is composed of more than one layer of that resin.

(c) On and after January 1, 1989, the Division of Recycling of the Department of Conservation shall maintain a list of abbreviations used on labels pursuant to subdivision (a) and shall provide a copy of that list to any person upon request.

18016. On and after January 1, 1992, it is unlawful to manufacture for use in this state any rigid plastic container which is not labeled in accordance with Section 18015. A violation of this section is a crime punishable by a fine of one thousand dollars ($1,000).

18017. The Legislative Analyst shall review compliance with this chapter and shall submit a report of its evaluation to the Legislature on or before January 1, 1993.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 839

An act to amend Section 3370 of the Labor Code, relating to workers' compensation, and making an appropriation therefor.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 3370 of the Labor Code is amended to read:

3370. (a) Each inmate of a state penal or correctional institution shall be entitled to the workers' compensation benefits provided by this division for injury arising out of and in the course of assigned employment and for the death of the inmate if the injury proximately causes death, subject to all of the following conditions:

(1) The inmate was not injured as the result of an assault in which the inmate was the initial aggressor, or as the result of the intentional act of the inmate injuring himself or herself.

(2) The inmate shall not be entitled to any temporary disability indemnity benefits while incarcerated in a state prison.

(3) No benefits shall be paid to an inmate while he or she is incarcerated. The period of benefit payment shall instead commence upon release from incarceration. If an inmate who has been released from incarceration, and has been receiving benefits under this section, is reincarcerated in a state penal or correctional institution, the benefits shall cease immediately upon the inmate's reincarceration and shall not be paid for the duration of the reincarceration.

(4) This section shall not be construed to provide for the payment to an inmate, upon release from incarceration, of temporary disability benefits which were not paid due to the prohibition of paragraph (2).

(5) In determining temporary and permanent disability indemnity benefits for the inmate, the average weekly earnings shall be taken at not less than the minimum amount set forth in Section 4453.

(6) Where a dispute exists repecting an inmate's rights to the workers' compensation benefits provided herein, the inmate may file an application with the appeals board to resolve the dispute. The application may be filed at any time during the inmate's incarceration.

(7) After release or discharge from a correctional institution, the former inmate shall have one year in which to file an original application with the appeals board, unless the time of injury is such that it would allow more time under Section 5804 of the Labor Code.

(8) The percentage of disability to total disability shall be determined as for the occupation of a laborer of like age by applying the schedule for the determination of the percentages of permanent

disabilities prepared and adopted by the administrative director.

(9) This division shall be the exclusive remedy against the state for injuries occurring while engaged in assigned work. Nothing in this division shall affect any right or remedy of an injured inmate for injuries not compensated by this division.

(b) The Department of Corrections shall present to each inmate of a state penal or correctional institution, prior to his or her first assignment to work at the institution, a printed statement of his or her rights under this division, and a description of procedures to be followed in filing for benefits under this section. The statement shall be approved by the administrative director and be posted in a conspicuous place at each place where an inmate works.

(c) Notwithstanding any other provision of this division, the Department of Corrections shall have medical control over treatment provided an injured inmate while incarcerated in a state prison, except, that in serious cases, the inmate is entitled, upon request, to the services of a consulting physician.

(d) Paragraphs (2), (3), and (4) of subdivision (a) shall also be applicable to an inmate of a state penal or correctional institution who would otherwise be entitled to receive workers' compensation benefits based on an injury sustained prior to his or her incarceration. However, temporary and permanent disability benefits which, except for this subdivision, would otherwise be payable to an inmate during incarceration based on an injury sustained prior to incarceration shall be paid to the dependents of the inmate. If the inmate has no dependents, the temporary disability benefits which, except for this subdivision, would otherwise be payable during the inmate's incarceration shall be paid to the State Treasury to the credit of the Uninsured Employers Fund, and the permanent disability benefits which would otherwise be payable during the inmate's incarceration shall be held in trust for the inmate by the Department of Corrections during the period of incarceration.

For purposes of this subdivision, "dependents" means the inmate's spouse or children, including an inmate's former spouse due to divorce and the inmate's children from that marriage.

CHAPTER 840

An act to add Section 273.7 to the Penal Code, relating to crime.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 273.7 is added to the Penal Code, to read:

273.7. (a) Any person who maliciously publishes, disseminates or otherwise discloses the location of any domestic violence shelter or

any place designated as a domestic violence shelter, without the authorization of that domestic violence shelter, is guilty of a misdemeanor.

(b) (1) For purposes of this section, "domestic violence shelter" means a confidential location which provides emergency housing on a 24-hour basis for victims of sexual assault, spouse abuse, or both, and their families.

(2) Sexual assault, spousal abuse, or both, includes but is not limited to, those crimes described in Sections 240, 242, 243.4, 261, 261.5, 264.1, 266, 266a, 266b, 266c, 266f, 273.5, 273.6, 285, 288, and 289.

(c) Nothing in this section shall apply to confidential communications between an attorney and his or her client.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 841

An act to amend Sections 9889.71, 9889.72, 9889.73, and 9889.74 of the Business and Professions Code, relating to consumer disputes.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 9889.71 of the Business and Professions Code is amended to read:

9889.71. The bureau shall establish a program for certifying each third party dispute resolution process used for the arbitration of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code In establishing the program, the bureau shall do all of the following:

(a) Prescribe and provide forms to be used to apply for certification under this chapter.

(b) Establish a set of minimum standards which shall be used to determine whether a third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(c) Prescribe the information which each manufacturer, or other entity, that operates a third party dispute resolution process shall provide the bureau in the application for certification. In prescribing the information to accompany the application for certification, the bureau shall require the manufacturer, or other entity, to provide only that information which the bureau finds is reasonably necessary

to enable the bureau to determine whether the third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

(d) Prescribe the information that each qualified third party dispute resolution process shall provide the bureau, and the time intervals at which the information shall be required, to enable the bureau to determine whether the qualified third party dispute resolution process continues to operate in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

SEC. 2. Section 9889.72 of the Business and Professions Code is amended to read:

9889.72. (a) Each manufacturer may establish, or otherwise make available to buyers or lessees of new motor vehicles, a qualified third party dispute resolution process for the resolution of disputes pursuant to paragraph (2) of subdivision (e) of Section 1793.2 of the Civil Code. A manufacturer that itself operates the third party dispute resolution process shall apply to the bureau for certification of that process. If the manufacturer makes the third party dispute resolution process available to buyers or lessees of new motor vehicles through contract or other arrangement with another entity, that entity shall apply to the bureau for certification. An entity that operates a third party dispute resolution process for more than one manufacturer shall make a separate application for certification for each manufacturer that uses that entity's third party dispute resolution process. The application for certification shall be accompanied by the information prescribed by the bureau.

(b) The bureau shall review the application and accompanying information and, after conducting an onsite inspection, shall determine whether the third party dispute resolution process is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the bureau determines that the process is in substantial compliance, the bureau shall certify the process. If the bureau determines that the process is not in substantial compliance, the bureau shall deny certification and shall state, in writing, the reasons for denial and the modifications in the operation of the process that are required in order for the process to be certified.

(c) The bureau shall make a final determination whether to certify a third party dispute resolution process or to deny certification not later than 90 calendar days following the date the bureau accepts the application for certification as complete.

SEC. 3. Section 9889.73 of the Business and Professions Code is amended to read:

9889.73. (a) The bureau, in accordance with the time intervals prescribed pursuant to subdivision (d) of Section 9889.71, but at least once annually, shall review the operation and performance of each qualified third party dispute resolution process and determine, using the information provided the bureau as prescribed pursuant to

subdivision (d) of Section 9889.71 and the monitoring and inspection information described in subdivision (c) of Section 9889.74, whether the process is operating in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter. If the bureau determines that the process is in substantial compliance, the certification shall remain in effect.

(b) If the bureau determines that the process is not in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter, the bureau shall issue a notice of decertification to the entity which operates the process and shall send a copy of that notice to any manufacturer affected by the decertification. The notice of decertification shall state the reasons for the issuance of the notice and prescribe the modifications in the operation of the process that are required in order for the process to retain its certification.

(c) A notice of decertification shall take effect 180 calendar days following the date the notice is served on the manufacturer, or other entity, which uses the process that the bureau has determined is not in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code or this chapter. The bureau shall withdraw the notice of decertification prior to its effective date if the bureau determines, after a public hearing, that the manufacturer, or other entity, which uses the process has made the modifications in the operation of the process required in the notice of decertification and is in substantial compliance with paragraph (3) of subdivision (e) of Section 1793.2 of the Civil Code and this chapter.

SEC. 4. Section 9889.74 of the Business and Professions Code is amended to read:

9889.74. In addition to any other requirements of this chapter, the bureau shall do all of the following:

(a) Establish procedures to assist owners or lessees of new motor vehicles who have complaints regarding the operation of a qualified third party dispute resolution process.

(b) Establish methods for measuring customer satisfaction and to identify violations of this chapter, which shall include an annual random postcard or telephone survey by the bureau of the customers of each qualified third party dispute resolution process.

(c) Monitor and inspect, on a regular basis, qualified third party dispute resolution processes to determine whether they continue to meet the standards for certification. Monitoring and inspection shall include, but not be limited to, all of the following:

(1) Onsite inspections of each qualified third party dispute resolution process not less frequently than twice annually.

(2) Investigation of complaints from consumers regarding the operation of qualified third party dispute resolution processes and analyses of representative samples of complaints against each process.

(3) Analyses of the annual surveys required by subdivision (b).

(d) Notify the Department of Motor Vehicles of the failure of a

manufacturer to honor a decision of a qualified third party dispute resolution process to enable the department to take appropriate enforcement action against the manufacturer pursuant to Section 11705.4 of the Vehicle Code.

(e) Submit a biennial report to the Legislature evaluating the effectiveness of this chapter, make available to the public summaries of the statistics and other information supplied by each qualified third party dispute resolution process, and publish educational materials regarding the purposes of this chapter.

(f) Adopt regulations as necessary and appropriate to implement this chapter.

CHAPTER 842

An act to amend Section 1185 of the Civil Code, and to amend Section 8206 of the Government Code, relating to acknowledgment of instruments.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 1185 of the Civil Code is amended to read:

1185. (a) The acknowledgment of an instrument shall not be taken unless the officer taking it personally knows, or has satisfactory evidence that the person making the acknowledgment is, the individual who is described in and who executed the instrument.

(b) For purposes of this article, "personally knows" means having an acquaintance, derived from association with the individual in relation to other people and based upon a chain of circumstances surrounding the individual, which establishes the individual's identity with at least reasonable certainty.

(c) For the purposes of this section "satisfactory evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person making the acknowledgment is not the individual he or she claims to be and any one of the following:

(1) The oath or affirmation of a credible witness personally known to the officer that the person making the acknowledgment is personally known to the witness.

(2) The oath or affirmation under penalty of perjury of two credible witnesses, whose identities are proven to the officer upon the presentation of satisfactory evidence, that each of the following are true:

(A) The person making the acknowledgment is the person named in the document.

(B) The person making the acknowledgment is personally known

to the witnesses.

(C) That it is the reasonable belief of the witnesses that the circumstances of the person making the acknowledgment are such that it would be very difficult or impossible for that person to obtain another form of identification.

(D) The person making the acknowledgment does not possess any of the identification documents named in paragraphs (3) and (4).

(E) The witnesses do not have a financial interest in the document being acknowledged and are not named in the document.

(3) Reasonable reliance on the presentation to the officer of any one of the following, if the document is current or has been issued within five years:

(A) An identification card or driver's license issued by the California Department of Motor Vehicles.

(B) A passport issued by the Department of State of the United States.

(4) Reasonable reliance on the presentation of any one of the following, provided that a document specified in subparagraphs (A) to (E), inclusive, shall either be current or have been issued within five years and shall contain a photograph and description of the person named on it, shall be signed by the person, shall bear a serial or other identifying number, and, in the event that the document is a passport, shall have been stamped by the United States Immigration and Naturalization Service:

(A) A passport issued by a foreign government.

(B) A driver's license issued by a state other than California or by a Canadian or Mexican public agency authorized to issue drivers' licenses.

(C) An identification card issued by a state other than California.

(D) An identification card issued by any branch of the armed forces of the United States.

(E) An inmate identification card issued on or after January 1, 1988, by the Department of Corrections, if the inmate is in custody.

(F) An inmate identification card issued prior to January 1, 1988, by the Department of Corrections, if the inmate is in custody.

(d) An officer who has taken an acknowledgment pursuant to this section shall be presumed to have operated in accordance with the provisions of law.

(e) Any party who files an action for damages based on the failure of the officer to establish the proper identity of the person making the acknowledgment shall have the burden of proof in establishing the negligence or misconduct of the officer.

(f) Any person convicted of perjury under this section shall forfeit any financial interest in the document.

SEC. 8. Section 8206 of the Government Code is amended to read:

8206. A notary public shall keep a sequential journal of all official acts performed as a notary public. The journal shall be in addition to

and apart from any copies of notarized documents which may be in the possession of the notary public and shall include:

(a) Date, time and type of each official act.

(b) Character of every instrument acknowledged or proved before the notary.

(c) The signature of each person whose signature is being notarized.

(d) A statement as to whether the identity of a person making an acknowledgment was based on personal knowledge or satisfactory evidence. If identity was established by satisfactory evidence pursuant to Section 1185 of the Civil Code, then the journal shall contain the signature of the credible witness swearing or affirming to the identity of the individual or the type of identifying document, the governmental agency issuing the document, the serial or identifying number of the document, and the date of issue or expiration of the document.

(e) If the identity of the person making the acknowledgment was established by the oaths or affirmations of two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the type of identifying documents, the identifying numbers of the documents and the dates of issuance or expiration of the documents presented by the witnesses to establish their identity.

(f) The fee charged for the notarial service.

Upon written request of any member of the public, which request shall include the name of the parties, the type of document, and the month and year in which notarized, the notary shall supply a photostatic copy of the line item representing the requested transaction at a cost of not more than thirty cents ($0.30) per page.

CHAPTER 843

An act to amend Sections 233, 21655, and 22406 of, and to add Sections 636 and 2818 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 233 of the Vehicle Code is amended to read:

233. A "bus" is any vehicle, including a trailer bus, designed, used, or maintained for carrying more than 10 persons including the driver, except a vanpool vehicle, as defined in Section 668, and a vehicle designed, used, or maintained for carrying not more than 15 persons, including the driver, when the driver is transporting only members of the immediate family of the owner thereof, shall not be considered to be a bus for the purposes of this section.

SEC. 2. Section 636 is added to the Vehicle Code, to read:

636. A trailer bus is a motor truck or truck tractor drawing a trailer or semitrailer designed, used, or maintained for the transportation of more than 10 persons, including the driver.

SEC. 3. Section 2818 is added to the Vehicle Code, to read:

2818. It is unlawful to traverse a flare pattern, cone pattern, or combination thereof, provided for the regulation of traffic, or provided in any situation where public safety personnel are engaged in traffic control or emergency scene management.

SEC. 4. Section 21655 of the Vehicle Code is amended to read:

21655. (a) Whenever the Department of Transportation or local authorities with respect to highways under their respective jurisdictions determines upon the basis of an engineering and traffic investigation that the designation of a specific lane or lanes for the travel of vehicles required to travel at reduced speeds would facilitate the safe and orderly movement of traffic, the department or local authority may designate a specific lane or lanes for the travel of vehicles which are subject to the provisions of Section 22406 and shall erect signs at reasonable intervals giving notice thereof.

(b) Any trailer bus, except as provided in Section 21655.5, and any vehicle subject to the provisions of Section 22406 shall be driven in the lane or lanes designated pursuant to subdivision (a) whenever signs have been erected giving notice of that designation. Except as otherwise provided in this subdivision, when a specific lane or lanes have not been so designated, any of those vehicles shall be driven in the right-hand lane for traffic or as close as practicable to the right edge or curb. If, however, a specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, any of those vehicles may also be driven in the lane to the immediate left of that right-hand lane, unless otherwise prohibited under this code. When overtaking and passing another vehicle proceeding in the same direction, the driver shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under this code.

This subdivision does not apply to a driver who is preparing for a left- or right-hand turn or who is entering into or exiting from a highway or to a driver who must necessarily drive in a lane other than the right-hand lane to continue on his or her intended route.

SEC. 5. Section 22406 of the Vehicle Code is amended to read:

22406. No person shall drive any of the following vehicles on a highway at a speed in excess of 55 miles per hour:

(a) A motortruck or truck tractor having three or more axles or any motortruck or truck tractor drawing any other vehicle.

(b) A passenger vehicle or bus drawing any other vehicle.

(c) A schoolbus transporting any school pupil.

(d) A farm labor vehicle when transporting passengers.

(e) A vehicle transporting explosives.

(f) A trailer bus, as defined in Section 636.

SEC. 6 No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 844

An act to amend Section 593c of the Penal Code, relating to pipelines.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 593c of the Penal Code is amended to read:

593c. Every person who willfully and maliciously breaks, digs up, obstructs, interferes with, removes or injures any pipe or main or hazardous liquid pipeline erected, operated, or maintained for the purpose of transporting, conveying or distributing gas or other hazardous liquids for light, heat, power or any other purpose, or any part thereof, or any valve, meter, holder, compressor, machinery, appurtenance, equipment or apparatus connected with any such main or pipeline, or used in connection with or affecting the operation thereof or the conveying of gas or hazardous liquid therethrough, or shuts off, removes, obstructs, injures, or in any way interferes with any valve or fitting installed on, connected to, or operated in connection with any such main or pipeline, or controlling or affecting the flow of gas or hazardous liquid through any such main or pipeline, is guilty of a felony.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 845

An act to amend Section 6 of Chapter 1137 of the Statutes of 1987, relating to urban impact aid, and making an appropriation therefor.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 6 of Chapter 1137 of the Statutes of 1987 is amended to read:

Sec. 6. (a) There is hereby established a task force on urban impact aid, which shall consist of five members appointed by the Governor, two members appointed by the Speaker of the Assembly, and two members appointed by the Senate Rules Committee. The task force shall do all of the following:

(1) Review the rationale and purposes of urban impact aid. As part of this review, the task force shall identify the increased costs, if any, associated with providing educational services in school districts with high concentrations of educationally disadvantaged, low-income, welfare-dependent, or limited English-proficient pupils.

(2) Review those factors and the formulas used as the basis for providing urban impact aid to school districts in recognition of high concentrations of those pupils, and determine whether those factors and formulas accurately and fairly measure the educational and fiscal needs associated with that impaction. In completing this review, the task force shall consider the relationship between the allocation of funds pursuant to Sections 54060 and 54060.2 and any increases or reductions in demonstrated need for funding in each school district and statewide since the enactment of Chapter 894 of the Statutes of 1977.

(3) Propose, if appropriate, for consideration by the Legislature, criteria for the allocation of general aid to school districts in recognition of the impaction of educationally disadvantaged pupils. If criteria are proposed, the task force shall identify the relationship between increases or decreases in the allocation of funds to each school district and the pupil or district characteristics that reflect educational and fiscal needs in that district.

(b) The task force shall report its findings and recommendations to the fiscal and education policy committees of the Senate and the Assembly on or before March 1, 1988.

(c) The members of the task force shall be reimbursed for expenses.

SEC. 2. The sum of fifteen thousand dollars ($15,000) is hereby appropriated from the General Fund to the State Department of Education for the purposes of defraying the expenses incurred by the task force on urban impact aid established pursuant to Section 6 of

Chapter 1137 of the Statutes of 1987.

CHAPTER 846

An act to add Section 16077 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 16077 is added to the Vehicle Code, to read:

16077. (a) The department, upon application and payment of a fifty dollar ($50) fee and a penalty fee of two hundred dollars ($200), may issue a restricted license to an applicant with serious health problems when his or her privilege to drive is otherwise suspended under this chapter, to enable the applicant to drive a motor vehicle for the purpose of receiving medical treatments of a prolonged and repetitive nature, if the person files and maintains proof of financial responsibility on file with the department pursuant to Section 16021.

The application shall set forth the nature of the health problem, the nature of the treatments, the duration and location of the treatments, and the schedule for visits. The applicant shall submit documentation signed by the treating physician or surgeon as necessary to assist the department in its decision to grant or deny the restricted license. Upon reviewing the application, the department may determine that an investigation as to the person's fitness to operate a motor vehicle is warranted. If the department makes this determination, the department may conduct an investigation in a manner provided for in Chapter 3 (commencing with Section 13800) of Division 6.

In reviewing the application, the department shall give due consideration to the circumstances set forth in the application and shall be guided by principles of fairness and humanity.

(b) Notwithstanding Chapter 2 (commencing with Section 42200) of Division 18, all revenues derived from the penalty fees provided in subdivision (a) shall be deposited in the Financial Responsibility Penalty Account in the General Fund.

SEC. 2. This act shall become operative July 1, 1989.

CHAPTER 847

An act to amend Sections 73433, 73433.1, 73434, 73435, 73436, 73437, 74604, 74607, 74610, 74921.5, 74921.6, 74922, 74922.5, 74923, and 74924 of, and to add Section 73433.2 to, the Government Code, relating to courts.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 73433 of the Government Code is amended to read:

73433. There shall be one clerk-administrator in each municipal court who shall be appointed by and serve at the pleasure of a majority of the judges of the court to which the clerk-administrator is appointed. In a court with less than three judges, the presiding judge shall appoint the clerk-administrator of the court. The clerk-administrator of the East Kern Municipal Court shall receive the biweekly salary specified in range 50.1 of the salary schedule. The clerk-administrator of the West Kern Municipal Court shall receive the biweekly salary specified in range 54.1 of the salary schedule. The salary of the West Kern Municipal Court clerk-administrator shall be not less than 12 full range steps higher than the salary range in which the position of chief deputy court clerk is compensated.

SEC. 2. Section 73433.1 of the Government Code is amended to read:

73433.1. There shall be one assistant clerk-administrator in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in range 50.1 of the salary schedule.

SEC. 2.5. Section 73433.2 is added to the Government Code, to read:

73433.2. There shall be one assistant clerk-administrator in the East Kern Municipal Court who shall be appointed by and serve at the pleasure of the majority of the judges of the court. The assistant clerk-administrator shall receive the biweekly salary specified in range 46.1 of the salary schedule.

SEC. 3. Section 73434 of the Government Code is amended to read:

73434. There shall be one judicial secretary in the West Kern Municipal Court who shall be appointed by and serve at the pleasure of a majority of the judges of the court. The judicial secretary shall receive a biweekly salary specified in range 40.7 of the salary schedule.

SEC. 4. Section 73435 of the Government Code is amended to read:

73435. The clerk-administrator of the West Kern Municipal Court may appoint:

(a) Three chief deputy court clerks who shall act as the supervisors of the civil, criminal, and traffic divisions of the court and each of whom shall receive the biweekly salary specified in range 41.2 of the salary schedule.

(b) Five deputy court clerks III, each of whom shall receive the biweekly salary specified in range 39.3 of the salary schedule.

(c) Sixteen municipal courtroom clerks or junior municipal courtroom clerks, each of whom shall receive the biweekly salary specified in ranges 39.3 and 36.5, respectively, of the salary schedule.

Junior municipal courtroom clerk shall be the entrance position to courtroom clerk. The clerk-administrator, with the concurrence of the presiding judge, may advance any junior municipal courtroom clerk to the position of municipal courtroom clerk without further examination, if the junior municipal courtroom clerk has served for six months and otherwise meets the qualifications for municipal courtroom clerk and if the presiding judge is satisfied with the junior municipal courtroom clerk's performance during the six-month period.

(d) One data entry operator IV who shall receive the biweekly salary specified in range 38.2 of the salary schedule.

(e) Three data entry operators II or I, each of whom shall receive the biweekly salary specified in ranges 34.2 and 32.2, respectively, of the salary schedule. Data entry operator I shall be the entrance position to the data entry operator series. The clerk-administrator may advance any data entry operator I to the position of data entry operator II without further examination if the data entry operator I has served for one year and otherwise meets the qualifications for data entry operator II.

(f) One account clerk IV who shall receive the biweekly salary specified in range 39.2 of the salary schedule.

(g) One account clerk III who shall receive the biweekly salary specified in range 36.4 of the salary schedule.

(h) Seven account clerks II or I each of whom shall receive the biweekly salary specified in ranges 33.7 and 30.9, respectively, of the salary schedule. Account clerk I shall be the entrance position to the account clerk series. The clerk-administrator may advance any account clerk I to the position of account clerk II without further examination if the account clerk I has served for one year and otherwise meets the qualifications for account clerk II.

(i) Twenty-nine full-time deputy court clerks II, I, or junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 36.5, 32.5, and 29.7, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and

otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy court clerk I has served for six months and otherwise meets the qualifications for deputy court clerk II.

(j) One senior secretary who shall receive the biweekly salary specified in range 39.3 of the salary schedule.

(k) One legal clerk I who shall receive the biweekly salary specified in range 37.9 of the salary schedule.

(*l*) One records clerk who shall receive the biweekly salary specified in range 36.0 of the salary schedule.

(m) One accountant III who shall receive the biweekly salary specified in range 48.4, of the salary schedule.

(n) Two recording technicians, each of whom shall receive the biweekly salary specified in range 37.5 of the salary ordinance.

(o) One collection clerk II who shall receive the biweekly salary specified in range 37.2 of the salary schedule.

SEC. 5. Section 73436 of the Government Code is amended to read:

73436. The clerk-administrator of the East Kern Municipal Court may appoint:

(a) Three deputy court clerks III, each of whom shall receive the biweekly salary specified in range 39.3 of the salary schedule.

(b) Ten full-time and three part-time deputy court clerks II, I, or junior deputy court clerks, each of whom shall receive the biweekly salary specified in ranges 36.5, 32.5, and 29.7, respectively, of the salary schedule.

Junior deputy court clerk shall be the entrance position to the clerk's staff. The clerk-administrator may advance any junior deputy court clerk to the position of deputy court clerk I without further examination, if the junior deputy has served for six months and otherwise meets the qualifications for deputy court clerk I. The clerk-administrator may advance any deputy court clerk I to the position of deputy court clerk II without further examination if the deputy court clerk I has served for six months and otherwise meets the qualifications for deputy court clerk II.

SEC. 6. Section 73437 of the Government Code is amended to read:

73437. (a) Whenever reference to a numbered salary range of the salary schedule is made in any section of this article, the schedule of salary ranges found in the salary ordinance of the County of Kern in effect on December 1, 1987, shall apply. The employees of the municipal courts shall be paid biweekly pursuant to the payroll procedures in effect in the County of Kern.

(b) The minimum salary for each position shall normally be "step A" for the position. If it is difficult to secure qualified personnel at that step or if a person of unusual qualifications is engaged, the court or the clerk-administrator may hire at any step of the salary range applicable to the position.

(c) Any employee who is promoted or whose position is reclassified from one class position to a higher class position shall be placed in the step level of the higher class salary range which most closely approximates a one-step increase from the former position, except that such increase shall not exceed an amount equivalent to 1.4 steps in the salary schedule. In the event the "A" step of the higher class position is greater than a 1.4-step increase over the salary of the employee in the lower class position, the employee shall be placed at the "A" step in the salary range of the higher class position.

(d) The Board of Supervisors of the County of Kern may adjust the salaries paid to employees of the municipal courts as part of its county employee compensation plan. Such adjustment shall be effective on the same date as the effective date of the action of the board of supervisors to adjust compensation of other county employees. Any adjustment shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

(e) In addition to the compensation provided in this article, the attachés of the municipal court shall receive, and they shall be entitled to, the same vacations, sick leaves, and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of Kern, including the right to participate in any group, accident, health or life insurance plan adopted by the Board of Supervisors of the County of Kern.

SEC. 7. Section 74604 of the Government Code is amended to read:

74604. There shall be one clerk of the court known as the court executive officer, who shall be appointed by the presiding judge with the concurrence of a majority of the judges of the court, and shall hold office at the pleasure of the majority of the judges. The monthly compensation to be paid to the court executive officer shall be Range 2191, Step 5, of the San Luis Obispo County Salary Table. In addition to any other duties imposed on such officer by law, the court executive officer shall have the following duties:

(a) To direct and coordinate the nonjudicial activities of the court.

(b) To coordinate the personnel practices in compliance with rules of the court.

(c) To prepare and administer the budget of the court.

(d) To coordinate with other county agencies the acquisition, utilization, maintenance and disposition of county facilities, equipment and supplies necessary for operation of the court.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge relating to the business of the court, including, but not limited to, such matters as standardization of forms, procedures, and classification and compensation of officers and employees.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the court and to prepare periodic reports and

recommendations based on such data.

(g) To serve as liaison for the court with other persons, committees, boards, groups, and associations as directed by the presiding judge.

(h) To provide for and conduct a program of in-service training for the personnel of the municipal court.

SEC. 8. Section 74607 of the Government Code is amended to read:

74607. (a) The presiding judge may make appointments to the following authorized positions:

Number	Classification	Salary Range
1	Assistant Clerk Administrator	1397
2	Calendar Coordinator—1/2 time	0993
10	Municipal Court Trainee, or	0762
	Municipal Court Clerk I, or	0835
	Municipal Court Clerk II	0895
1	Municipal Court Accounting Technician	0868
2	Municipal Court Account Clerk, or	0679
1	Accountant II	1219
26	Municipal Court Legal Process Clerk Trainee, or	0636
	Municipal Court Legal Process Clerk I, or	0762
	Municipal Court Legal Process Clerk II, or	0835
	Municipal Court Legal Process Clerk III	0895
2	Municipal Court Legal Process Clerk III—1/2 time	0895
4	Supervising Municipal Court Clerk	0993
1	Administrative Services Officer I	1066

(b) At no time shall the number of Municipal Court Clerk II positions set forth in subdivision (a) exceed four.

(c) At no time shall the number of Municipal Court Legal Process Clerk II positions set forth in subdivision (a) exceed nine. At no time shall the number of Municipal Court Legal Process Clerk I and II positions set forth in subdivision (a) exceed 13.

SEC. 9. Section 74610 of the Government Code is amended to read:

74610. (a) The positions enumerated in Sections 74604, 74607, and 74608 are deemed to be comparable in job and salary level to certain positions in the service of San Luis Obispo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Court Classification	County Classification
Court Executive Officer	Deputy County Counsel IV (Confidential)
Assistant Clerk Administrator	Deputy County Clerk Recorder
Calendar Coordinator—1/2 time Clerk	Supervising Superior Court
Municipal Court Clerk I, II	Superior Court Clerk I, II
Municipal Court Clerk Trainee	Legal Process Clerk I
Municipal Court Accounting Technician	Accounting Technician
Municipal Court Account Clerk Accountant I, II	Account Clerk Accountant I, II
Municipal Court Legal Process Clerk Trainee	Legal Process Clerk Trainee
Municipal Court Legal Process Clerk I, II, III	Legal Process Clerk I, II, III
Municipal Court Legal Process Clerk III—1/2 time	Legal Process Clerk III
Supervising Municipal Court Clerk	Supervising Superior Court Clerk
Administrative Services Officer I	Administrative Services Officer I

In the event that the salary for any classification which is shown above is increased by the board of supervisors, a commensurate increase shall be made in the salary for the comparable court classification. Salary adjustments made pursuant to this section shall be effective the same date as the effective date of action of the board of supervisors applicable to the respective and comparable county classifications, but shall remain effective only until January 1 of the second year following the year in which such an adjustment in salary is made.

(b) Upon recommendation of the judges of the court, and with the approval of the board of supervisors, the court may appoint additional employees as it deems necessary for the performance of the duties and exercise of the powers conferred by law upon the court and its members. Any appointment made pursuant to this section shall be on an interim basis and shall expire January 1st of the second calendar year following the year in which the appointment is made unless ratified by the Legislature. This section shall not affect the application of Section 72150.

SEC. 10. Section 74921.5 of the Government Code is amended to read:

74921.5. In the Porterville Judicial District there shall be one

clerk of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, two court clerks II, two court clerks I and four office assistants II, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 11. Section 74921.6 of the Government Code is amended to read:

74921.6. In the Tulare-Pixley Judicial District there shall be one clerk of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, two court clerks III, three court clerks II, three court clerks I and four office assistants II, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 12. Section 74922 of the Government Code is amended to read:

74922. In the Visalia Judicial District there shall be one clerk of the municipal court who shall also act as administrator and secretary of the court. The clerk may appoint one assistant clerk of the municipal court, three court clerks III, five court clerks II, two court clerks I, one account clerk, and eight office assistants II, each of whom shall receive a salary in accordance with Sections 74923 and 74924.

SEC. 13. Section 74922.5 of the Government Code is amended to read:

74922.5. There shall be one marshal for each municipal court who shall receive a biweekly salary of one thousand two hundred ninety-one dollars and twenty cents ($1,291.20). The marshal of the Visalia Judicial District may appoint five deputy marshals, one office assistant II, and one account clerk. The marshals of the Porterville and Tulare-Pixley Judicial Districts may each appoint three deputy marshals and one account clerk, each of whom shall receive a salary in accordance with Sections 74923 and 74924. In the Tulare-Pixley and Porterville Judicial Districts one deputy marshal in each district shall serve on a half-time basis.

SEC. 14. Section 74923 of the Government Code is amended to read:

74923. The biweekly salaries for the following classes of positions shall be 80 times the hourly rate set forth in the following schedule:

TITLE	RANGE	A	B	C	D	E
Clerk municipal court ..	178	11 520	12.105	12 720	13 367	14 047
Assistant clerk municipal court	165	10 128	10 643	11.183	11 751	12 348
Court clerk III ...	148	8 559	8 994	9 449	9 929	10 434
Court clerk II	133	7 379	7.753	8 146	8 559	8 994
Court clerk I	118	6 363	6 685	7 023	7 379	7 753
Account clerk . .	118	6.636	6 685	7 023	7.379	7 753
Office assistant II	114	6 116	6 426	6 751	7 093	7 452
Deputy marshal .	166	10 229	10 749	11 294	11 868	12 471

SEC. 15. Section 74924 of the Government Code is amended to read:

74924. Subject to the provisions of Section 72001, the compensation of officers and attachés shall be governed as follows:

(a) The initial hiring rate for each position shall be at step A. If it is difficult to secure qualified personnel at such rate, or if a person of unusual qualifications is hired, the appointing authority, with the approval of the board of supervisors, may employ such person at one of the higher salary steps provided for the position.

(b) All step increases shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed in the office of the clerk or marshal, including the clerk, may be advanced from step A to step B of a position after the completion of 13 full pay periods of service in the position. A person may be advanced to steps C, D and E upon completion of 26 full pay periods of service in the same position.

(c) Certain classes of positions in the municipal courts in Tulare County are deemed to be comparable in job and salary level to certain positions in the service of the County of Tulare, or in some instances to such positions with a range adjustment on the salary schedule of the County of Tulare. Whenever the salary of a classification in the service of Tulare County is adjusted by the board of supervisors the salary of the comparable classification in the municipal courts shall be adjusted an equal number of ranges on the currently effective salary schedule established by the board of supervisors. Such adjustments shall be effective on the same date as the effective date of the action by the board of supervisors as it applies to classifications in the county service, but such adjustments shall be effective only until January 1 of the second year following the year in which such adjustments are made, unless ratified by the Legislature. The following table sets forth the municipal court classification with the comparable county classification with appropriate range adjustment, if any, shown opposite thereto:

Municipal court classification	County classification
Clerk of the municipal court	Chief deputy court clerk plus 7 ranges
Assistant clerk, municipal court	Chief deputy court clerk minus 3 ranges
Court clerk III	Courtroom clerk
Court clerk II	Courtroom clerk minus 15 ranges
Court clerk I	Courtroom clerk minus 30 ranges
Account clerk	Account clerk
Office assistant II	Office assistant II

Marshal	Sheriff's sergeant
Deputy marshal	Bailiff
	plus 2 ranges

SEC. 16. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 848

An act to amend Section 1347 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 1347 of the Health and Safety Code is amended to read:

1347. (a) There is established in the Department of Corporations a Health Care Service Plan Advisory Committee consisting of 20 members. The members shall consist of the commissioner or the commissioner's designee; a physician and surgeon with five years' experience in providing services to enrollees of a health care service plan; a person with expertise and five years' experience in an administrative capacity of a hospital-based plan; a person with five years' experience with a corporation formed under Section 9201 of the Corporations Code; a person with five years' experience with a non-hospital-based independent practice association; a person with expertise and five years' experience in a health care service plan which is a hospital-based independent practice association; a person with five years' experience in an administrative capacity with a non-hospital-based health care service plan; a person with five years' experience in an administrative capacity with a specialized health care service plan; a certified public accountant with five years' experience in auditing plans; and six public members having no financial interest in the delivery of health care services or in plans except for being enrolled in a health care service plan or specialized health care service plan.

The members shall also include two persons with five years' experience in an administrative capacity with a dental service plan, two persons with five years' experience in an administrative capacity with a vision service plan, and one person with five years' experience in an administrative capacity with a mental health service plan, all of whom shall be appointed by the commissioner for a term of three

years commencing January 1, 1989. With respect only to one of the members appointed who is required to have five years' experience in an administrative capacity with a vision service plan, until January 1, 1996, the commissioner may at his or her discretion substitute for the five years' experience requirement compensating factors such as professional education, experience in related fields, and other factors as the commissioner deems relevant.

The members shall be appointed by the commissioner for a term of three years, except that of the members first appointed, four shall serve for a term of one year and five shall serve for a term of two years, as designated by the commissioner.

The committee shall meet at least quarterly and at the call of the chairperson. The commissioner or the commissioner's designee shall be chairperson of the committee. The committee may establish its own rules and procedures. All members shall serve without compensation, but the six public members shall be reimbursed from department funds for expenses actually and necessarily incurred by them in the performance of their duties.

(b) The purpose of the committee is to assist and advise the commissioner in the implementation of the commissioner's duties under this chapter. The commissioner shall consult with the advisory committee on regulations and the recommendations of the committee shall be made a part of the record with regard to such regulations. The committee shall be given at least 45 days to review and comment on regulations prior to setting a notice of hearing for proposed regulations. Nothing in this subdivision prohibits the commissioner from promulgating urgency regulations pursuant to the provisions of the Administrative Procedure Act.

CHAPTER 849

An act to amend Section 6250 of the Penal Code, relating to correctional institutions.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 6250 of the Penal Code is amended to read:

6250. (a) The Director of Corrections may establish and operate facilities to be known as community correctional centers.

(b) No later than 30 days after the department has designated a site as a potential site, the director shall notify the county board of supervisors or city council in whose jurisdiction the center may be located. The notification shall set forth the specifics of the site location, design, and operational characteristics for the facility. The department shall not contract for the facility until it has received and

reviewed the comments of every local agency notified under this section or the expiration of 60 days after having given notice to the local agency, whichever occurs first.

Upon receipt of the notice, the city, county, or city and county may hold a public hearing concerning the impact of the facility on the community. At the conclusion of the public hearing, the city, county, or city and county may make a recommendation to the department as to the appropriateness of the proposed site, specific design and operational features to help make the facility more compatible with the community, and alternative locations, if appropriate.

Upon receipt of comments and recommendations, the department shall determine whether to proceed with the facility, to modify the proposal, or to select an alternative site. If the department selects a site recommended by the local agency after a hearing conducted pursuant to this section, no further review or hearings are required by this subdivision.

(c) The notice referred to in subdivision (b) may be delivered by hand or sent by any form of mail requiring a return receipt. Failure to provide the notice shall be grounds for extinguishing the contract upon motion of the board of supervisors or city council.

(d) The Director of Corrections shall not change the use of or significantly increase the capacity of a community correctional center established pursuant to subdivision (a) unless the director has first notified the county board of supervisors or city council in whose jurisdiction the center is located at least 30 days prior to the change of use or capacity. Failure to provide the notice shall be grounds for enjoining the change in use or capacity.

CHAPTER 850

An act to add Sections 2003.5 and 2003.6 to the Fish and Game Code, and to add Section 5080.39 to the Public Resources Code, relating to fish.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 2003.5 is added to the Fish and Game Code, to read:

2003.5. (a) The Legislature finds and declares that the fish of this state are a vital, renewable resource which provides recreation, outdoor experiences, and food for many of this state's citizens. Therefore, it is in the state's best interests to promote volunteer private rehabilitation and improvement of fisheries, fish habitat, and resources.

(b) The Legislature declares it is the policy of this state to

encourage cooperation by local, regional, state, and federal governmental agencies with jurisdiction over inland waters with private groups and associations in order to do fish habitat and restoration work. This policy shall be pursued through the implementation of a program known as the "Adopt a Lake Program."

SEC. 2. Section 2003.6 is added to the Fish and Game Code, to read:

2003.6. The department may implement the "Adopt a Lake Program" to facilitate private groups' and associations' undertaking volunteer efforts to rehabilitate and improve fisheries, fish habitat, and resources. In implementing this program, the department shall prepare and periodically update a plan for the volunteer efforts to be undertaken. The plan shall be prepared cooperatively by the department, the private group or association, and the public agency with jurisdiction over the inland water to be affected by the plan. The plan shall be consistent with the management plan and management objectives of the department and the public agency with jurisdiction over the inland water.

SEC. 3. Section 5080.39 is added to the Public Resources Code, to read:

5080.39. The department and other appropriate state and local agencies, and federal agencies to the extent permitted by federal law, with jurisdiction over inland waters are encouraged to cooperate with private groups and associations in order to do fish habitat and restoration work to implement the Adopt a Lake Program pursuant to Section 2003.5 of the Fish and Game Code.

CHAPTER 851

An act to amend, repeal, and add Section 1237.5 of the Penal Code, relating to criminal procedure.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 1237.5 of the Penal Code is amended to read:

1237.5. No appeal shall be taken by a defendant from a judgment of conviction upon a plea of guilty or nolo contendere, or a revocation of probation following an admission of violation, except where the defendant has filed as part of the notice of appeal a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings.

This section shall remain in effect only until January 1, 1992, and

as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. Section 1237.5 is added to the Penal Code, to read:

1237.5. No appeal shall be taken by the defendant from a judgment of conviction upon a plea of guilty or nolo contendere, or a revocation of probation following an admission of violation, except where both of the following are met:

(a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings.

(b) The trial court has executed and filed a certificate of probable cause for such appeal with the county clerk.

This section shall become operative on January 1, 1992.

CHAPTER 852

An act to amend Section 54734 of the Education Code, relating to schools, and making an appropriation therefor.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 54734 of the Education Code is amended to read:

54734. The Superintendent of Public Instruction shall do all of the following:

(a) Assist school districts and schools, upon request, to design, implement, or evaluate school plans authorized by this article.

(b) Apportion funds in accordance with the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28 and this article.

(c) Conduct program quality and fiscal reviews to:

(1) Ensure that funds allocated pursuant to this article are expended for the purposes intended.

(2) Provide information helpful to schools in improving their programs.

(3) Provide information and technical assistance helpful to schools in improving the school-based pupil motivation and maintenance programs.

(d) Establish an information dissemination repository, including, but not limited to, model programs, instructional strategies, and effective practices for working with high-risk pupils and increasing the pupil retention of schools and school dropout recovery programs. This repository shall be made available to school districts.

(e) Request that school plans submitted pursuant to Article 3

(commencing with Section 52850) of Chapter 12 of Part 28 by school district governing boards be in compliance with this article and any implementing administrative regulations.

(f) Contract for independent evaluation of the school-based pupil motivation and maintenance programs, and report the evaluation results, together with any policy recommendations, to the Legislature on or before January 1, 1990, and, again, on or before January 1, 1992. The State Department of Education shall make available, for this purpose, a request for proposal that specifies the scope, work plan, and other necessary information. Each of the reports shall address, but not be limited to, all of the following:

(1) The resulting reduction in absence, truancy, tardiness, and dropout rates.

(2) Staff development programs for persons working with high-risk pupils.

(3) The utilization of pupil study teams in working with high-risk pupils.

(4) The coordination of services from other funding sources.

(5) The effectiveness of the outreach consultant position.

(6) The effectiveness of instructional and auxiliary services for high-risk pupils, including, but not limited to, pupils with no, or limited, proficiency in speaking English and educationally disadvantaged pupils.

SEC. 2. Of those funds to be allocated by the Superintendent of Public Instruction under Item 6110-230-001 of the Budget Act of 1988 for the purpose of implementing pupil dropout prevention programs based upon model programs approved for use by the State Department of Education, the sum of ninety thousand dollars ($90,000) shall be available for expenditure for the purposes of contracting for independent evaluation of pupil motivation and maintenance programs, and reporting the results of those evaluations, pursuant to Section 54734 of the Education Code.

CHAPTER 853

An act to amend Sections 19533, 19596.5, and 19596.6 of, and to add Section 19617.6 to, the Business and Professions Code, relating to horseracing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 19533 of the Business and Professions Code, as amended by Chapter 6 of the Statutes of 1988, is amended to read:

19533. (a) Any license granted to an association other than a fair

shall be only for one type of racing, thoroughbred, harness, or quarter horse racing as the case may be, except that the board may, by regulation, authorize the entering of thoroughbred horses in quarter horse races at a distance of 870 yards at quarter horse meetings, mixed breed meetings, and fair meetings.

(b) If the board adopts regulations authorizing the entering of thoroughbred horses in quarter horse races, the regulations shall provide that the association which conducts the meeting shall, as provided in subdivision (b) of Section 19613, pay to the horsemen's organization representing thoroughbred horsemen an amount for administrative expense and services rendered to horsemen equivalent to 1.5 percent of the amount available to thoroughbred horses for purses, and an amount for a pension plan for backstretch personnel to be administered by that horsemen's organization equivalent to an additional 1 percent of the amount available to thoroughbred horses for purses. The remainder of the portion shall be distributed as purses. The regulations shall also provide that any redistributable money paid to the board pursuant to Section 19641 which is paid to a welfare fund established by a horsemen's organization from races with both thoroughbred and quarter horses be divided pro rata between the two welfare funds based on the number of thoroughbreds and quarter horses in the race.

SEC. 2. Section 19596.5 of the Business and Professions Code, as amended by Chapter 138 of the Statutes of 1988, is amended to read:

19596.5. (a) Notwithstanding any other provision of law, the board may authorize an association licensed to conduct a racing meeting in the northern zone to operate a satellite wagering facility for wagering on races conducted in the northern zone at its racetrack inclosure, except during the part of the day racing is being conducted at its racetrack, and may, with the approval of the Department of Food and Agriculture, authorize any county fair, district agricultural association fair, or citrus fruit fair in the northern zone eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting or authorized pursuant to Section 19596.7, to locate a satellite wagering facility at its fairgrounds for wagering on races conducted in the northern zone, if all of the following conditions are met:

(1) An organization described in subdivision (c) of Section 19596.4 has executed agreements, which are approved by the board, with the association conducting a racing meeting in the northern zone and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility will be included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted. Notwithstanding any other provision of law or any agreement under this subdivision, for purposes of determining license fees and breakage at the racetrack where the racing meeting is conducted, wagers at a satellite wagering facility shall not be included in the conventional or exotic pools of the

association conducting the racing meeting.

(2) The horsemen's organization which represents the horsemen at the association which conducts the racing meeting on which wagers are accepted consents to the acceptance of wagers at the satellite wagering facility, except that the association or fair operating the satellite wagering facility may appeal the withholding of consent to the board which may determine that consent is not required.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering has been approved by the board.

(5) Except as provided in Section 19596.9, any association or fair which conducts satellite wagering shall conduct wagering on all racing offered to the satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or night meeting, as long as that loss is reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses which would be incurred regardless of the acceptance of night wagers shall be considered.

(b) Notwithstanding subdivision (a), during periods of the day when there is no night racing in the northern zone, the live audiovisual signal of night harness or quarter horse races in the central or southern zone may be offered to satellite wagering facilities in the northern zone, provided, however, (1) that racing associations may accept that audiovisual signal, but are not required to do so and (2) that satellite wagering facilities located at fairs are not required to accept more than five night racing programs per week.

(c) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the deductions for wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted under this section shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c)

of Section 19596.4, and 0.4 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and, in the case of quarter horses, 0.4 of 1 percent shall be distributed as breeders' awards to breeders of quarter horses pursuant to Section 19617.6, and, in the case of Appaloosas, 0.4 of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas and, in the case of standardbreds, 0.4 of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition to the distributions in paragraph (1) or (2), on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent of the total amount handled by the satellite wagering facility shall be distributed to an organization described in subdivision (c) of Section 19596.4 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year, and if promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(d) On thoroughbred meetings only, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing

meeting.

(e) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (c) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses at the association conducting the racing meeting, except that, for meetings commencing on or after the effective date of the amendments to this subdivision enacted at the 1987–88 Regular Session of the Legislature, owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting.

(f) Except as provided in subdivisions (g) and (h), all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, are hereby continuously appropriated from that account to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for the following purposes, except that the concurrence of the Director of Finance shall be obtained for allocations for the purposes of paragraphs (1) and (2):

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred, for the purpose of constructing improvements only at a fair's racetrack inclosure, for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects and handicapped access compliance at fairs. Notwithstanding any other law, the department may also commit any funds available for allocation under Article 10 (commencing with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at fairs.

(4) For support purposes of fairs generally.

(g) Seven and one-half percent of all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in the General Fund.

(h) Up to 10 percent of all revenues payable to the state as license fees from satellite wagering facilities located at fairs shall be deposited in a special account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings to achieve the purposes of subdivision (i). The department shall annually determine the percentage of revenues payable to the special account under this subdivision based on the amount necessary to achieve the purposes of subdivision (i).

(i) It is the intent of the Legislature that funds allocated pursuant to subdivision (h) be used primarily at fair racing meetings in the northern zone with a daily average handle of more than three hundred thousand dollars ($300,000). The Legislature further finds that its intent is that these allocations be used to bring the purses at these fairs, exclusive of purses for stakes races and special events, to a level of at least 80 percent of purses for similar classes of horses at private racing associations in the northern zone. The funds shall be used among all breeds. For fair racing meetings in the northern zone with a daily average handle of three hundred thousand dollars ($300,000) or less, it is the intent of the Legislature to bring the purses to a level of at least 25 percent of purses for similar classes of horses at private racing associations in the northern zone.

SEC. 3. Section 19596.6 of the Business and Professions Code, as amended by Chapter 138 of the Statutes of 1988, is amended to read:

19596.6. (a) Notwithstanding any other provision of law, subject to the conditions and limitations set forth in this section and Section 19596.7, the following entities in the central or southern zone are eligible to be licensed to operate a satellite wagering facility for wagering on races conducted in the central or southern zone:

(1) Any county fair, district agricultural association fair, or citrus fruit fair which conducted general fair activities in 1986 within the central or southern zone, and which is eligible for an allocation of racing days pursuant to Section 19549, but which is not licensed to conduct a racing meeting, may locate a satellite wagering facility at its fairgrounds.

(2) Any association licensed to conduct a racing meeting in the central or southern zone.

(b) The board may authorize an eligible association or, with the approval of the Department of Food and Agriculture, an eligible fair, to operate a satellite wagering facility under all of the following conditions:

(1) A racing association licensed to conduct a racing meeting shall conduct satellite wagering only within its racing inclosure.

(2) An organization described in subdivision (c) of Section 19596.4 has executed an agreement approved by the board with the association conducting a racing meeting and the satellite wagering facility. The agreement shall provide, among other things, the conditions for transmission of the signal and that the wagers made at the satellite wagering facility are included in the appropriate conventional or exotic pool at the racetrack where the racing meeting is conducted.

(3) The accommodations and equipment used in conducting wagering at the satellite wagering facility and their location have been approved by the board.

(4) The method used by the satellite wagering facility to transmit wagers, odds, results, and other data related to wagering have been approved by the board.

(5) Any association or fair that operates a satellite wagering

facility shall conduct wagering on all racing conducted in the central or southern zone that is offered to that satellite wagering facility, as long as the satellite wagering facility is not sustaining a loss on either a day meeting or a night meeting, as determined by the board, and, if sustaining a loss on either a day meeting or a night meeting, as long as that loss is not reimbursed by either an organization described in subdivision (c) of Section 19596.4 or an association.

In calculating the loss, if any, for operating a satellite wagering facility for a night meeting, only the expenses incurred by the satellite wagering facility because of acceptance of night wagers shall be considered, and no overhead expenses or expenses of the satellite wagering facility which would be incurred regardless of the acceptance of night wagers shall be considered.

(c) Notwithstanding subdivision (a), a satellite wagering facility may not be located within the County of Los Angeles or within the County of Orange, except as follows:

(1) If all other conditions in subdivision (b) are met, the Fiftieth District Agricultural Association may be authorized to operate a satellite wagering facility upon its fairgrounds in the City of Lancaster and to accept wagers on races conducted in the southern and central zones.

(2) If all other conditions are met, any fair or association licensed to conduct racing meetings in the County of Los Angeles and any racing association other than a fair which is licensed to conduct racing in the County of Orange may be authorized to operate a satellite wagering facility for the limited purpose of conducting satellite wagering on races conducted at the Twenty-Second District Agricultural Association fairgrounds at Del Mar in the County of San Diego, except that, when a fair in Orange County is licensed for a racing meeting, a satellite wagering facility located within the racing inclosure where the racing meeting is conducted may not operate on the days that racing is conducted.

(d) The total percentage deducted from wagers at satellite wagering facilities shall be the same as the percentage deducted from wagers at the racetrack where the racing meeting is being conducted and shall be distributed as set forth in this section. Amounts deducted by a satellite wagering facility under this section shall be distributed as follows:

(1) On thoroughbred meetings only, 2.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 4.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, 2.5 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and 0.40 of 1 percent shall be distributed to the breeders in the form of breeders' awards, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary

Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(2) On harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1.5 percent of the amount handled by the satellite wagering facility on conventional wagers and 3.0 percent on exotic wagers shall be distributed to the state as a license fee, 2 percent shall be retained by the satellite wagering facility as a commission, and 6 percent or the amount of actual operating expenses, as determined by the board, whichever is less, shall be distributed to an organization described in subdivision (c) of Section 19596.4, and, in the case of quarter horses, 0.4 of 1 percent shall be distributed as breeders awards to breeders of quarter horses pursuant to Section 19617.6, and, in case of Appaloosas, 0.4 of 1 percent shall be distributed as breeders' awards to breeders of Appaloosas and, in the case of standardbreds, 0.4 of 1 percent shall be distributed for the California Standardbred Sires Stakes Program pursuant to Section 19619, and one-tenth of 1 percent of the amount wagered at the satellite wagering facility shall be distributed to the Equine Research Laboratory, School of Veterinary Medicine, University of California at Davis. It is the intent of the Legislature that these one-tenth of 1 percent funds to the Equine Research Laboratory shall supplement and not supplant other funding sources.

(3) In addition, on thoroughbred meetings and harness, quarter horse, Appaloosa, mixed breed, or fair meetings, 1 percent shall be distributed to an organization described in subdivision (c) of Section 19596.4 for promotion of the program at satellite wagering facilities. Any of the promotion funds that are not distributed in the year in which they are collected may be distributed in the following year, and if promotion funds distributed in any year exceed the amount collected for that year, the funds distributed in the following year shall be reduced by the excess amount. Additionally, 0.33 of 1 percent of the total amount handled by the satellite wagering facility shall be paid to the city or county in which the satellite wagering facility is located pursuant to Section 19610.3 or 19610.4.

(e) On thoroughbred meetings only, the funds remaining after distribution of the amounts in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent as purses to the horsemen participating in the racing meeting, except that owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting. All of the funds distributed for purses from satellite wagering facilities shall go to the purse program of the association conducting the racing meeting except that all sums for distribution as purses at satellite wagering facilities which are racing fairs in the County of Los Angeles shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code,

is hereby continuously appropriated to the Department of Food and Agriculture for supplementing purses at fair meetings in Los Angeles and Orange Counties. The department shall distribute these funds on an equal basis to each racing fair in these counties for distribution in all nonstakes races and among all breeds.

(f) On harness, quarter horse, Appaloosa, mixed breed, and fair meetings, the funds remaining after distribution of the amounts set forth in subdivision (d) shall be distributed 50 percent as commissions to the racing association which conducts the racing meeting and 50 percent to the horsemen in the form of purses participating in the racing meeting, except that, for meetings commencing on or after the effective date of the amendments to this subdivision enacted at the 1987–88 Regular Session of the Legislature, owners' premiums shall be paid from the amount distributed for purses in the same relative percentage as owners' premiums are paid at the racing meeting.

(g) Notwithstanding subdivision (e), when satellite wagering is conducted on thoroughbred meetings, an amount, not to exceed 1.25 percent of the total amount handled by all satellite wagering facilities, shall be deducted from the funds otherwise allocated for distribution as commissions, purses, and owners' premiums and instead distributed to an organization formed and operated by thoroughbred racing associations, fairs conducting thoroughbred racing, and the organization representing thoroughbred horsemen, with each party having meaningful representation on the board of the organization, to administer, pursuant to supervision of the board, a fund to provide reimbursement for offsite stabling at board-approved auxiliary training facilities of licensed racing associations for additional stalls beyond the number of usable stalls the association is required to make available and maintain pursuant to Section 19535, and for the vanning of starters from these additional stalls on race days for thoroughbred horses.

(h) The funds distributed to the organization formed pursuant to subdivision (g) shall be used to reimburse racing associations who are operating offsite stabling providing additional stalls for the incremental increase in operating costs directly resulting from providing the stabling. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except the entity operating the offsite stabling facility where the injury occurred, shall be liable for any injury to any jockey, exercise person, owner, trainer, or any employee or agent thereof, or any horse occurring at any offsite stabling facility.

The funds shall also reimburse horsemen for the cost of vanning starting horses from a board-approved auxiliary training facility operated by a licensed racing association to the track conducting the racing meeting. Horsemen may use carriers of their own choice, except that the amount of reimbursement to horsemen is limited to the amount that the organization determines is generally charged by

carriers for vanning from the auxiliary training facility to the track conducting the racing meeting. Neither the organization administering the offsite stabling and vanning program nor any of the entities forming and operating the organization, except the entity actually engaged in vanning horses, shall be liable for any injury occurring to any individual or horse during vanning from an offsite stabling facility.

The training facilities and amenities provided for offsite stabling and training purposes shall be equivalent in character to those provided during racing meetings of the association.

Upon the request of any party within the organization, the board shall adjudicate any dispute regarding costs, or other matters relating to the furnishing of offsite stabling or vanning. The board may, if necessary, appoint an independent auditor to assist in the resolution of disputes. The auditor shall be reimbursed from the funds of the organization.

The organization may maintain a reserve fund of up to 10 percent of the total estimated annual vanning and stabling costs. In addition to the reserve fund, if the funds generated for offsite stabling and vanning are insufficient to fully reimburse racing associations for expenses incurred during the offsite vanning and stabling program, the organization is entitled to accumulate sufficient funds to fully reimburse these expenses.

The amount initially deducted and distributed to the organization shall be 1.25 percent of the total amount handled by satellite wagering facilities authorized under this section on thoroughbred racing, but that allocation may be adjusted by the board, in its discretion, but the adjusted amount may not exceed 1.25 percent of the total amount handled by satellite wagering facilities, to pay expenses and maintain the reserve fund for the continuing support of the program.

(i) Forty-two percent of the revenue payable to the state from license fees from satellite wagering facilities located at fairs under the authority of this section shall be deposited in a separate account in the fund and, notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated from that account to the Department of Food and Agriculture, for allocation by the Director of Food and Agriculture, in his or her discretion, for the following purposes, except that the concurrence of the Director of Finance shall be obtained for allocations for the purposes of paragraphs (1) and (2):

(1) For repayment of the principal of, and interest on, bonds issued by a joint powers agency, or of other debt service or expense incurred for the purpose of constructing improvements only at a fair's racetrack inclosure, or for the purpose of construction of satellite wagering facilities at fairs, and for health and safety repair projects and handicapped access compliance at fairs. Notwithstanding any other law, the department may also commit any funds available for allocation under Article 10 (commencing

with Section 19620) to complete projects funded under this paragraph in the priority described in this paragraph.

(2) For repayment of expenses incurred by fairs in establishing and operating satellite wagering facilities.

(3) For health and safety repair projects at the fair.

(4) For support purposes of the fair generally.

(j) The remaining 58 percent of the revenues payable to the state from satellite wagering facilities at fairs and all revenues payable to the state from satellite wagering facilities located under the authority of this section at sites other than fairs shall be deposited in the General Fund.

(k) Notwithstanding subdivision (b) of Section 19641, the state shall receive as additional license fees 50 percent of any redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility, subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, and the funds shall be deposited in the General Fund. The remaining 50 percent of redistributable money in a parimutuel pool arising from wagers at a satellite wagering facility shall be paid to a welfare fund established by the horsemen's organization contracting with the association conducting the racing meeting for the benefit of horsemen, and that organization shall make an accounting to the board within one calendar year of the receipt of the payment.

(*l*) Of the total breakage arising in a parimutuel pool which includes wagers at satellite wagering facilities, that percentage of breakage equal to the percentage that wagers placed at satellite wagering facilities constitute of the total parimutuel pool shall be distributed equally among the state as an additional license fee deposited in the General Fund, the track conducting the racing meeting as a commission, and the horsemen participating in the racing meeting in the form of purses. The remainder of the breakage shall be distributed in the same manner as breakage arising from wagers at the track conducting the racing meeting.

(m) Notwithstanding subdivision (c) of Section 19596.5 and subdivision (d) of this section, if the total revenues from horseracing for deposit in the General Fund for the 1988–89 fiscal year, as determined by the board, do not equal or exceed one hundred fifteen million dollars ($115,000,000), the license fees distributed to the state for all wagers under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1, 1989. The board shall determine if the total revenues from horseracing for deposit in the General Fund during the 1989–90 fiscal year and subsequent fiscal years equal or exceed one hundred fifteen million dollars ($115,000,000), and in fiscal years when that amount is not equaled or exceeded, the license fees distributed to the state for all wagers under subdivision (c) of Section 19596.5 and subdivision (d) of this section shall be increased by one-half of 1 percent for meetings commencing after July 1 of the following fiscal year.

SEC. 4. Section 19617.6 is added to the Business and Professions Code, to read:

19617.6. (a) The board shall designate the officially recognized organization representing quarter horsemen to administer this section and to distribute any amounts which are made available for distribution under this section. The organization may, with the approval of the board, make a deduction for expenses, which shall not exceed 10 percent of the total amount available for distribution under this section.

(b) A breeders' award equal to 5 percent of the winning horse's share of the purse won by a California-bred quarter horse in any race at any meeting held in the state, other than a fair or mixed breed meeting, shall be paid to the breeder of the winning horse.

(c) The amount remaining for distribution under this section, if any, after the payments are made under subdivision (b) shall be used for the payment of quarter horse stallion awards as provided in this subdivision.

At the end of the calendar year, stallion awards shall be made under this subdivision on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the owners of sires of quarter horses who have been officially placed first or second in one or more races other than maiden or claiming races at a quarter horse meeting, or in a nonmaiden claiming race at a quarter horse meeting in races having a total purse value equal to, or in excess of, the average purse value for races, other than stakes races, won by California-bred quarter horses during the previous year, or in any quarter horse stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair or mixed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

Stallion awards shall not be made for any race run outside the State of California.

(d) If there are insufficient funds to make all of the distributions in this section, there shall be no assessments made against any association to fund the deficiencies.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the provisions in this act may apply during the 1988 racing season, it is necessary that this act take effect immediately.

CHAPTER 854

An act to amend Sections 626.9 and 626.10 of the Penal Code, relating to crime.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 626.9 of the Penal Code is amended to read:

626.9. Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4, or an armored vehicle guard, who is engaged in the performance of his or her duties, as defined in Section 7521 of the Business and Professions Code, who brings or possesses a firearm upon the grounds of any public school, including the University of California, the California State University, and the California Community Colleges, or within any public school, including the University of California, the California State University, and the California Community Colleges, unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished by imprisonment in the state prison for one, two, or three years.

SEC. 2. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a public offense punishable by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison for one, two, or three years.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, the University of California, the California State University, or the California Community Colleges is guilty of a public offense punishable by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison for one, two, or three years.

(c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12 or any university, state university, or community college at the direction of a faculty member of the university or state university or a certificated or classified employee of the school for use in a university, state university, or a school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any university, state university, or community college, for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Any certificated or classified employee or school peace officer of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any faculty member of the university or state university or a certificated or classified employee or school peace officer of any university, state university, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

SEC. 3. No reimbursement is required by this act pursuant to

Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 855

An act to repeal Section 11202 of the Government Code, to amend Section 1751.6 of, to add Section 12921.6 to, and to repeal Sections 12975.1, 12975.7, and 12995 of, the Insurance Code, and to repeal Sections 10 and 11 of Chapter 722 of the Statutes of 1982, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 11202 of the Government Code is repealed.

SEC. 2. Section 1751.6 of the Insurance Code is amended to read:

1751.6. The commissioner may prepare a list of all currently licensed agents, brokers, and solicitors. All such lists shall be at the expense of the insurer, organization, or person requesting this service, except that special lists which are a part of the regulatory responsibility of the department may be at the expense of the state in the discretion of the commissioner. The costs and expenses of all such lists shall be paid from the support appropriation for the Department of Insurance current at the time of the preparation of the list but shall be charged to and collected from the insurer, organization, or person requesting the list. All list preparation expense moneys collected by the Department of Insurance under the provisions of this section are hereby appropriated to the department and shall be deposited in the Insurance Fund to the credit of the support appropriation for the department current at the time of the deposit. If any such insurer, organization, or person refuses to pay such costs and expenses promptly when due, the commissioner may refuse to issue its certificate of authority, certificate of exemption, or license, as the case may be, and may revoke any existing certificate of authority, certificate of exemption, or license.

SEC. 3. Section 12921.6 is added to the Insurance Code, to read:

12921.6. (a) (1) If no fee is designated in this code for the review of filings required to be made pursuant to this code, the commissioner may establish a fee to permit the department to recover the actual cost of review of those filings. The fee so established shall not be increased by more than twenty-five dollars ($25), unless the increase is made by law.

(2) If this code designates a fee for any required filing, which fee the commissioner determines to be inadequate to cover the actual cost of review, the commissioner may assess an additional fee pursuant to this section not to exceed 25 percent of the fee designated by the code for the filing.

(3) Any person assessed a fee under this section shall be entitled, upon request, to receive reasonable substantiation from the department for the fee assessed, based upon the cost records of the department.

(4) As used in this section, "filings" means those items which the insurers are required to file with the department or commissioner pursuant to this code

(b) The fee provided for by this section shall be assessed without regard to the requirements of Section 12978 as to uniformity of increase, but shall be based upon the actual cost to the department for the review of the filing.

(c) As used in this section, "person" means any person or entity subject to examination by the commissioner, or purporting to do insurance business in this state, or in the process of organization with intent to do insurance business in this state, or from whom the commissioner's certificate of authority is required for the transaction of business, or whose certificate of authority is revoked or suspended.

SEC. 4. Section 12975.1 of the Insurance Code, as added by Section 2 of Chapter 722 of the Statutes of 1982, is repealed.

SEC. 5. Section 12975.7 of the Insurance Code, as added by Section 4 of Chapter 722 of the Statutes of 1982, is repealed.

SEC. 6. Section 12995 of the Insurance Code, as added by Section 8 of Chapter 722 of the Statutes of 1982, is repealed.

SEC. 7. Section 10 of Chapter 722 of the Statutes of 1982, as amended by Section 34 of Chapter 770 of the Statutes of 1985, is repealed.

SEC. 8. Section 11 of Chapter 722 of the Statutes of 1982, as amended by Section 35 of Chapter 770 of the Statutes of 1985, is repealed.

SEC. 9. Sections 4 to 8, inclusive, of this act shall become operative on July 1, 1989.

CHAPTER 856

An act relating to transportation.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Notwithstanding any contrary provision in any allocation agreement, any vehicle or other equipment acquired by any entity with funds allocated to it from the Transportation Planning and Development Account in the State Transportation Fund by the Secretary of the Business and Transportation Agency pursuant to Section 99312 of the Public Utilities Code, as added by Section 34.5 of Chapter 161 of the Statutes of 1979, shall become the property of that entity when the department determines that the entity has completed the demonstration project for which the property was acquired and that the equipment has been in service for its normal useful service life, as established by the most recent depreciation standards of the federal Internal Revenue Service. Any proceeds derived from the subsequent sale of the property shall be retained by the entity so long as the proceeds are applied to the purchase or lease of transit vehicles or operation of transportation services.

CHAPTER 857

An act relating to taxation.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1 When requested by resolution of the board of supervisors of any county or city council of any city, the State Board of Equalization shall provide to the county or city a summary of the total amount of sales and use tax revenue reported to the board on sales and use tax returns from the types of businesses located in the city or unincorporated area of the county, segregated by each ZIP Code area within the city or unincorporated area of the county for any calendar quarter. Counties or cities who request this information shall be charged their pro rata share of the costs based on the population of the city or the unincorporated area of the county as determined by the board. For the first five years of the program, the costs shall include both startup and ongoing costs. After five years, the costs shall include only ongoing costs.

SEC. 2. The resolution by the board of supervisors of any county or city council of any city, issued pursuant to Section 1, shall state that the county or city agrees to pay its share of the costs, as determined by the State Board of Equalization.

The board shall not be required to make the information described in Section 1 available to any county or city until the end of the first calendar quarter which begins at least six months following receipt of such request from any combination of at least 40 counties of any population and cities with a population of greater than 10,000. After the first 40 requests have been received, each of those counties or cities shall contract with the board to pay its share of the actual costs of developing a statewide ZIP Code data retrieval system and preparing the summary of sales and use tax revenue which is required by Section 1.

CHAPTER 858

An act to add Section 998 of the Civil Code, relating to electronic data processing and telecommunications goods and services.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 998 is added to the Civil Code, to read:

998. Any private vendor of electronic data processing equipment or telecommunications goods and services may sell or lease equipment, goods, or services to a private school for the same price and on similar terms as the vendor sells or leases the equipment, goods, or services to a public school or school district.

CHAPTER 859

An act to amend Section 65353 of the Government Code, relating to land use planning.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 65353 of the Government Code is amended to read:

65353. (a) When the city or county has a planning commission authorized by local ordinance or resolution to review and recommend action on a proposed general plan or proposed

amendments to the general plan, the commission shall hold at least one public hearing before approving a recommendation on the adoption or amendment of a general plan. Notice of the hearing shall be given pursuant to Section 65090.

(b) If a proposed general plan or amendments to a general plan would affect the permitted uses or intensity of uses of real property, notice of the hearing shall also be given pursuant to paragraphs (1) and (2) of subdivision (a) of Section 65091.

(c) If the number of owners to whom notice would be mailed or delivered pursuant to subdivision (b) is greater than 1,000, a local agency may, in lieu of mailed or delivered notice, provide notice by publishing notice pursuant to paragraph (3) of subdivision (a) of Section 65091.

(d) If the hearings held under this section are held at the same time as hearings under Section 65854, the notice of the hearing may be combined.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 860

An act to add Chapter 22 (commencing with Section 22520) to Division 8 of the Business and Professions Code, relating to bakery trays and baskets.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Chapter 22 (commencing with Section 22520) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 22. BAKERY TRAYS AND BASKETS

22520. For the purpose of this chapter:

(a) "Bakery tray or basket" means a plastic or metal container which holds bread or other baked goods and is used by a distributor, retailer, or his or her agent as a means to transport, store, or carry those products.

(b) Section 22521 shall apply when a bakery tray or basket has a sign permanently affixed to it that identifies the owner of the property, notifies the public that the unauthorized possession of the tray or basket is a violation of state law, and lists an address or telephone number for returning the tray or basket to the owner.

22521. (a) As to any containers marked pursuant to this chapter the following acts are punishable under Sections 487 and 488 of the Penal Code:

(1) Possession or use of the marked bakery tray or basket by an unauthorized person.

(2) Obliteration of the mark on the bakery tray or basket, except by the owner thereof.

(b) "Unauthorized person" with respect to possession of a bakery tray or basket marked pursuant to this chapter includes any person in possession of that equipment except the owner or a person who, with the consent of the owner or any other authorized person, has temporary possession of the bakery tray or basket as a result of the sale, distribution, or purchase of goods packaged and transported in the containers.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 861

An act to amend Section 13144 of, and to add Section 12410.5 to, the Government Code, relating to public funds, and making an appropriation therefor.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 12410.5 is added to the Government Code, to read:

12410.5. The Controller shall receive every audit report prepared for any local public agency in compliance with the federal Single Audit Act of 1984 (P.L. 98-502; 31 U.S.C. Sec. 7501 et seq.) and required under any law to be submitted to any state agency, and shall, after ascertaining its compliance with that federal act, transmit the report to the designated state agency.

SEC. 2. Section 13144 of the Government Code is amended to read:

13144. Any fee or payment subject to refund under this article, and any excess payment to a revolving fund as defined in Section 13140, may be refunded by the state agency collecting the fee or erroneous or excess payment (a) before deposit in the State Treasury from any unremitted balance of receipts of the same nature in the state agency's checking account or (b) if deposited in the State

Treasury, from any appropriation made for the refund or from any unremitted balance of receipts of the same nature in the state agency's checking account. If there is an insufficient balance of unremitted receipts of the same nature in the state agency's checking account, there is hereby appropriated from the fund to which the payment was credited, a sufficient amount to make the refunds. Individual refunds under this article which exceed ten thousand dollars ($10,000), to be made from fees or payments deposited in the State Treasury, shall require prior approval of the Department of Finance and the Controller. Claims for refunds made under (b) of this section shall be charged to the account to which the original entry was made when the funds were deposited in the State Treasury.

Whenever any fee or payment subject to refund under (b) of this section has been paid into the State Treasury to the credit of two or more funds, the agency may file a single claim against one of the funds with the Controller, covering the total amount to be refunded from each of the funds credited. The claim shall be supported by such detail as the Controller may require. At least quarterly the agency shall certify to the Controller the amounts so paid from one fund which are properly chargeable to other funds and upon order of the Controller the amounts so required shall be transferred from those funds to the credit of the appropriate funds.

CHAPTER 862

An act to amend Section 6157 of the Government Code, and to amend Sections 987.76 and 988.3 of the Military and Veterans Code, relating to veterans farm and home purchases, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 6157 of the Government Code is amended to read:

6157. (a) The state, and each city, whether general law or chartered, county, and district, each subdivision, department, board, commission, body, or agency of the foregoing, shall accept personal checks drawn in its favor or in favor of a designated official thereof, in payment for any license, permit, or fee, or in payment of any obligation owing to the public agency or trust deposit, if the person issuing the check furnishes to the person authorized to receive payment satisfactory proof of residence in this state and if the personal check is drawn on a banking institution located in this state.

(b) If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check not to exceed ten dollars ($10) may be imposed, which charge may be added to and become part of any underlying obligation other than an obligation which constitutes a lien on real property, and a different method of payment for that payment and future payments by such person may be prescribed.

(c) The acceptance of a personal check pursuant to this section constitutes payment of the obligation owed to the payee public agency to the extent of the amount of the check as of the date of acceptance when, but not before, the check is duly paid.

(d) The provisions in subdivision (b) prohibiting a returned check charge being added to and becoming a part of an obligation which constitutes a lien on real property do not apply to obligations under the Veterans' Farm and Home Purchase Act of 1974 (Article 3.1 (commencing with Section 987.50) of Chapter 6 of Division 4 of the Military and Veterans Code).

SEC. 2. Section 987.76 of the Military and Veterans Code is amended to read:

987.76. Notwithstanding Section 6157 of the Government Code, the department shall be the sole judge of all of the following:

(a) The legality or validity of taxes, assessments, charges, or encumbrances, and the amount necessary to be paid in satisfaction or discharge thereof.

(b) The amount of insurance to be placed upon the buildings, fences, other permanent improvements, and crops and the amount necessary to be paid for the premiums for that insurance.

(c) The necessity and nature of the work required to keep the buildings, fences, and other improvements in good order and repair, and the amount to be paid therefor.

SEC. 3. Section 988.3 of the Military and Veterans Code is amended to read:

988.3. The Department of Finance may make advances of money to the department, needed to meet contingent expenses, of not more than fifty thousand dollars ($50,000), as the Department of Finance determines necessary, and may make advances of money to the department, needed to carry out Articles 3 (commencing with Section 984), 3.1 (commencing with Section 987.50), and 3.5 (commencing with Section 988) of this chapter of not more than twenty-five million dollars ($25,000,000), as the Department of Finance determines necessary, and these advances shall be administered as revolving funds. The Controller may draw warrants upon the Veterans' Farm and Home Building Fund for these advances, and the Treasurer may pay them.

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

In order to expedite the administrative procedures of the

Department of Veterans Affairs with respect to the Veterans' Farm and Home Purchase Act of 1974, and the handling of funds in that connection, as quickly as possible, it is necessary that this act take effect immediately.

CHAPTER 863

An act to amend Section 14499.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 14499.5 of the Welfare and Institutions Code is amended to read:

14499.5. (a) In carrying out the intent of this article, the director shall contract for the operation of one local pilot program. Special consideration shall be given to approving a program contracted through county government in Santa Barbara County.

(b) The establishment of a pilot program pursuant to this section shall be contingent upon the availability of state and federal funding. The program shall include the following components:

(1) Local authority for administration, fiscal management, and delivery of services, but not including eligibility determination.

(2) Physician case management.

(3) Cost containment through provider incentives and other means.

(c) The program for the pilot project shall include a plan and budget for delivery of services, administration, and evaluation. During the first year of the pilot program, the amount of the state contract shall equal 95 percent of total projected Medi-Cal expenditures for delivery of services and for administration based on fee-for-service conditions in the program county. During the remaining years of the pilot project, Medi-Cal expenditures in the program county shall be no more than 100 percent of total projected expenditures for delivery of services and for administration based on any combination of the following paragraphs:

(1) Relevant prior fee-for-service Medi-Cal experience in the program county.

(2) The fee-for-service Medi-Cal experience in comparable counties or groups of counties.

(3) Medi-Cal experience of the pilot project in the program county if, as determined by the state department, the scope, level, and duration of, and expenditures for, any services used in setting the rates under this paragraph would be comparable to fee-for-service conditions were they to exist in the program county and would be

more actuarially reliable for use in ratesetting than data available for use in applying paragraph (1) or (2).

The projected total expenditure shall be determined annually according to an acceptable actuarial process. The data elements used by the department shall be shared with the proposed contractor.

(d) The director shall accept or reject the proposal within 30 days after the date of receipt. If a decision is made to reject the proposal, the director shall set forth the reasons for this decision in writing. Upon approval of the proposal, a contract shall be written within 60 days. After signature by the local contractor, the State Department of Health Services, the Department of General Services, and the Department of Finance shall execute the contract within 60 days.

(e) The director shall seek the necessary state and federal waivers to enable operation of the program. If the federal waivers for delivery of services under this plan are not granted, the department is under no obligation to contract for implementation of the program.

(f) For purposes of Section 1343 of the Health and Safety Code, the Santa Barbara County Special Health Care Authority shall be considered to be a county-operated pilot program contracting with the State Department of Health Services pursuant to this article, and notwithstanding any other provision of law, during the period that this contract is in effect, the contractor shall be exempt from the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, relative to the services provided to Medi-Cal beneficiaries under the terms and provisions of the pilot program.

(g) Nothing in this section shall be construed to include dental services within the services provided in this pilot program.

(h) Any federal demonstration funding for this pilot program shall be made available to the county within 60 days upon notification of the award without the state retaining any portion not previously specified in the grant application as submitted.

(i) An independent evaluation of the program shall be conducted and a report submitted to the Legislature and the director by January 1, 1988. The independent evaluation of the program commissioned by the federal Health Care Financing Administration may fulfill the purposes of this part. This evaluation and report shall include, but is not limited to, the following:

(1) An assessment of the cost of medical services as compared to the cost of the existing Medi-Cal fee-for-service delivery mode.

(2) An assessment of utilization levels of specialist and emergency services.

(3) An assessment of the quality of care.

(4) Recommendations for future policy on delivery of services.

(j) This section shall remain in effect only until June 30, 1990, and as of that date is repealed, unless a later enacted statute which is chaptered before June 30, 1990, deletes or extends that date

CHAPTER 864

An act to amend Section 4987.8 of, and to add Section 4980.46 to, the Business and Professions Code, relating to marriage, family, and child counselors.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 4980.46 is added to the Business and Professions Code, to read:

4980.46. Any licensed marriage, family, and child counselor who conducts a private practice under a fictitious business name shall not use any name which is false, misleading, or deceptive, and shall inform the patient, prior to the commencement of treatment, of the name and license designation of the owner or owners of the practice.

SEC. 2. Section 4987.8 of the Business and Professions Code is amended to read:

4987.8. The name of a marriage, family, and child counseling corporation shall contain one or more of the words "marriage," "family," and "child" together with one or more of the words "counseling" or "counselor," and wording or abbreviations denoting corporate existence. A marriage, family, and child counseling corporation that conducts business under a fictitious business name shall not use any name which is false, misleading or deceptive, and shall inform the patient, prior to the commencement of treatment, that the business is conducted by a marriage, family, and child counseling corporation.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 865

An act to add Article 1.5 (commencing with Section 35580) to Chapter 5 of Division 15 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Article 1.5 (commencing with Section 35580) is

added to Chapter 5 of Division 15 of the Vehicle Code, to read:

Article 1.5. Intermodal Weight Determination Program

35580. (a) The Legislature finds and declares that a substantial number of container trailers using California highways exceed weight limitations authorized for California highways. Intermodal container trailers are containers which have been unloaded from ships or trains and placed on truck chassis, or are piggyback trailers unloaded from trains, for subsequent transport upon the highways. Container trailers are usually loaded by shippers in other states or foreign countries where gross and axle weight restrictions imposed by this code are of no concern to the loader. These loading practices often result in overweight vehicles traveling on California highways, which contributes to highway deterioration.

(b) The Legislature further finds and declares that the continued growth of intermodal transportation within the United States and the Pacific Rim makes it important for California to initiate a program to allow intermodal freight to be weighed at major terminal locations prior to operation on the highways, to ensure that these vehicles are within the established weight limits. The Legislature finds that the imposition of heavy fines and assessments is one means of reducing the number of overweight vehicles on the highways. A more effective, and preferable, alternative is to assure that intermodal container trailers are properly loaded at the outset by the party responsible for loading goods into the container trailer, so that vehicles meet weight requirements prior to their operation on the highways.

35581. (a) The Department of Transportation, in cooperation with the Department of California Highway Patrol, shall develop a plan for implementing or identifying new or existing scale facilities at major intermodal terminals which may serve as intermodal weighing facilities for weighing commercial vehicles which transport intermodal freight, prior to their entry onto any highway which is not specifically exempted from weight limitations by a local authority. The plan shall be developed in cooperation with a task force consisting of representatives of ports, local government entities, shippers, labor organizations, and the trucking, steamship, and railroad industries. The plan shall include consideration of options for financing the construction of required intermodal weighing facilities. The plan shall be submitted to the Legislature not later than August 1, 1989.

(b) The Department of Transportation may enter into agreements with local authorities or private entities to provide for exemption from weight restrictions for short distance movement to an intermodal weighing facility.

(c) The Department of Transportation shall submit an annual report not later than August 1, 1990, and August 1 each year thereafter, describing its progress in developing the intermodal

weight determination program, and its recommendations for the future of the program.

CHAPTER 866

An act to amend Section 20134 of the Public Contract Code, relating to contracts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 20134 of the Public Contract Code is amended to read:

20134. (a) In cases of great emergency, including, but not limited to, states of emergency described in Section 8558 of the Government Code, when repair or replacements are necessary to permit the continued conduct of county operations or services, or to avoid danger to life or property, the board of supervisors, by majority consent, may proceed at once to replace or repair any and all structures without adopting the plans, specifications, strain sheets, or working details or giving notice for bids to let contract. The work may be done by day labor under the direction of the board, by contract, or by a combination of the two. If the work is done wholly or in part by contract, the contractor shall be paid the actual cost of the use of machinery and tools and of material, and labor and of workers' compensation insurance expended by him or her in doing the work, plus not more than 15 percent to cover all profits and administration. No more than the lowest current market prices shall be paid for materials whenever possible.

(b) In a county of the first, second, third, or fourth class, which is under court order to relieve jail overcrowding or in which the sheriff certifies that the inmate capacity of the county jail system is exceeded by more than 20 percent and that the overpopulation is likely to continue and poses a threat to public safety, health, and welfare, the board of supervisors may contract for the construction or expansion of jail facilities without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this subdivision. The person to whom the contract is awarded shall execute a bond for faithful performance in accordance with Section 20129. Any plans and specifications adopted by the board may only be altered or changed in accordance with Section 20135 and all contracts awarded pursuant to this subdivision may only be altered or changed in accordance with Sections 20136, 20137, and 20138. The award of the contract shall be made after a public hearing on the basis of a request

for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the board determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the board and the lowest bid is selected.

(c) In any county that has agreed to permit the transfer of prisoners or parole violators under Section 2910 or 2910.5 of the Penal Code or of wards under Section 1753.3 of the Welfare and Institutions Code, the board of supervisors may contract for the construction or expansion of the facilities to be used for that purpose without the formality of obtaining bids, adopting plans and specifications, or complying with other requirements of this article, except as required by this subdivision. The person to whom the contract is awarded shall execute a bond for faithful performance in accordance with Section 20129. Any plans and specifications adopted by the board may only be altered or changed in accordance with Section 20135 and all contracts awarded pursuant to this subdivision may only be altered or changed in accordance with Sections 20136, 20137, and 20138. The award of the contract shall be made after a public hearing on the basis of a request for proposals advertised in accordance with Section 6062 or 6062a of the Government Code. The contract may be awarded only to a contractor who has responded to the request for proposals and who is licensed to do the work in accordance with Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. The contract shall be upon terms which the board determines are necessary for the expeditious completion of the work. A contract shall not be entered into unless at least three proposals to do the work have been evaluated by a competitive process established by the board and the lowest bid is selected.

(d) Proposed construction or expansion of jail or return-to-custody facilities as authorized under subdivision (b) or (c) shall not commence in a county of the third class without the affirmative vote of a majority of the city council of the incorporated city within which the construction or expansion is proposed.

(e) The board of supervisors may waive the requirements of Chapter 5 (commencing with Section 5100) of Part 1 of Division 2 of the Public Contract Code for work performed pursuant to subdivision (a), (b), or (c).

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

In order to permit Alameda County to immediately proceed with

urgently needed jail expansion, it is necessary for this act to take effect immediately.

CHAPTER 867

An act to amend Section 100.21 of the Streets and Highways Code, relating to state highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 100.21 of the Streets and Highways Code is amended to read:

100.21. (a) Whenever a street or highway closing agreement is required by Section 100.2, the department shall not acquire, except by gift, and except in hardship or protective cases as determined by the department or the commission, any real property for a freeway through a city until an agreement is first executed with the city council, or for a freeway through unincorporated territory in a county until an agreement is first executed with the board of supervisors. The department shall give notice to the city council or the board of supervisors, as the case may be, of any acquisition of real property prior to the execution of an agreement.

(b) Notwithstanding subdivision (a), a city council may, by resolution, authorize the purchase of rights-of-way prior to approval of an agreement if the purchase is limited to the main line corridor of the proposed freeway and the alignment of the freeway is not at issue.

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

In order that freeway rights-of-way may be acquired in a timely fashion to reduce acquisition costs, pending final execution of a freeway agreement by affected public entities, it is necessary that this act take effect immediately.

CHAPTER 868

An act to amend Sections 73075, 73084, 70384.6, and 73085 of the Government Code, relating to courts.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 73075 of the Government Code is amended to read:

73075. Each of the municipal court districts established in Alameda County shall have the number of judges set out below opposite the name of the judicial district over which such court has jurisdiction:

Alameda Judicial District	1
Berkeley-Albany Judicial District	4
Oakland-Piedmont-Emeryville Judicial District	14
San Leandro-Hayward Judicial District	8
Fremont-Newark-Union City Judicial District	4
Livermore-Pleasanton-Dublin Judicial District	2

SEC. 2. Section 73084 of the Government Code is amended to read:

73084. (a) In each municipal court established in Alameda County one clerk who shall also be known as the court administrative officer shall be appointed by the judge or judges of each court.

(b) The clerk and administrative officers of the following districts shall receive a bi-weekly salary at the rate set forth for that classification in the ordinance established for municipal courts in Alameda County:

	Ordinance Class No.
Alameda Judicial District	1690M
Berkeley-Albany Judicial District	1691M
Fremont-Newark-Union City Judicial District	1692M
Livermore-Pleasanton-Dublin Judicial District	1693M
Oakland-Piedmont-Emeryville Judicial District	1694M
San Leandro-Hayward Judicial District	1695M

SEC. 3. Section 73084.6 of the Government Code is amended to read:

73084.6. The clerk and administrative officer of the municipal court for the Livermore-Pleasanton-Dublin Judicial District may appoint the following deputy clerks:

(a) One chief deputy clerk.

(b) Three deputy clerks, municipal courtroom clerk.

(c) Three deputy clerks, supervising municipal court clerk I.

(d) Two deputy clerks, senior municipal court clerk.
(e) Eight and one-half deputy clerks, municipal court clerk.
(f) One deputy clerk, accounting technician.
(g) One deputy clerk, secretary I.

Not more than two such deputy clerks may be assigned as court interpreter at the additional percentage compensation provided for county employees required to possess bilingual capabilities.

SEC. 4. Section 73085 of the Government Code is amended to read:

73085. Chief deputy clerks of the following districts shall receive a bi-weekly salary at the rate set forth for that item number classification in the ordinance established for municipal courts:

	Ordinance Class No.
Oakland-Piedmont-Emeryville Judicial District	1675M
Hayward-San Leandro Judicial District	1676M
Fremont-Newark-Union City Judicial District	1677M
Berkeley-Albany Judicial District	1678M
Livermore-Pleasanton-Dublin Judicial District	1679M

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 869

An act to amend Sections 1569.49 and 1775.5 of the Health and Safety Code, relating to residential care facilities for the elderly.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 1569.49 of the Health and Safety Code is amended to read:

1569.49. (a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation. The department shall adopt regulations setting forth the appeal procedures for deficiencies.

(b) The amount of the civil penalty shall not be less than twenty-five dollars ($25) or more than fifty dollars ($50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher

penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars ($150) per day.

(c) Notwithstanding Section 1569.33, any residential care facility for the elderly that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars ($150) and fifty dollars ($50) for each day the violation continues until the deficiency is corrected.

(d) Any residential care facility for the elderly that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars ($150) for each day the violation continues until the deficiency is corrected.

The department shall adopt regulations implementing this section.

SEC. 2. Section 1775.5 of the Health and Safety Code is amended to read:

1775.5. (a) The Legislature foresees the need to protect transferors who have entered into life care contracts which provide for substantial refunds of entrance fee payments. Without reasonable assurance of the providers' abilities to pay the refunds, in consideration of possible competitive disadvantages, such as aging of the facility, the transferors or their estates would risk the loss of substantial entrance fee refunds. It is the policy of the State of California to limit these risks for the benefit of the general population of elderly persons. Therefore, the department shall impose requirements with respect to entrance fee refunds.

(b) Each provider, or other entity assuming responsibility, shall provide satisfactory evidence of the ability to pay refunds of entrance fees if the proposed or current life care contract form includes promises, express or implied, to pay refunds of entrance fees or to repurchase the transferors' units, membership, stock, or other interest in the project or facility, after the end of the trial residence period, in the event of the death of the surviving resident, or in the event of voluntary termination by the transferor or residents, when the specified refund right is not fully amortized within the first six years of residency.

(c) Satisfactory evidence of the ability to pay refunds shall be the maintenance of a refund reserve, deposited in a special trust fund which shall remain intact to accumulate interest earnings resulting from investments of liquid reserves in accordance with Section 1775.

(1) The "refund reserve" referred to in this subdivision shall be calculated based on the following assumptions:

(A) The facility will no longer receive entry fee income after a period of 40 years starting with the commencement of operation.

(B) Approved long-term investments, such as treasury notes, will earn 3 percent more than the rate of inflation.

(C) Entrance fees will increase at the rate of inflation.

(D) Land values will increase at the rate of inflation.

(E) Investments in the refund reserve trust will increase at the rate for approved long-term investments.

(2) The refund reserve referred to in this subdivision shall be calculated as follows:

(A) Calculate the number of units to be turned over each year at the approved rate of turnover.

(B) Determine the mean entrance fee, as of the current date.

(C) Determine the factor for inflating the mean entrance fee at the rate of 3 percent below the rate of interest on new 30-year treasury bonds, for the time interval from the current date to the 40th year of operation and for each preceding year, until all units have been turned over.

(D) Calculate the inflated mean entrance fees for the 40th year and for each preceding year, until all units have been turned over.

(E) (i) Multiply the inflated mean entrance fee for the 40th year, as specified in subparagraph (D), by the annual turnover, as specified in subparagraph (A).

(ii) Multiply the inflated mean entrance fee for each preceding year by the annual turnover, until the total of the annual turnovers used in the calculations equals the total number of units in the facility.

(iii) The projected refund liability shall be the sum of the products obtained pursuant to clauses (i) and (ii), multiplied by the rate of refund for the seventh year of residency, specified by current contracts, multiplied by the percentage of current life care contracts which specify this rate of refund. The projected refund liability shall be calculated for each rate, if existing contracts specify several rates.

(F) The projected refund liability, or the aggregate of these liabilities, if several rates are obtained pursuant to clause (iii) of subparagraph (E), may be reduced by the value of the land used for the facility, as determined by an appraiser approved by the department, inflated to the 40th year of operation, as determined pursuant to subparagraph (C), if the provider agrees to a lien pursuant to Section 1772 to secure this commitment.

(G) Calculate the present value of the projected refund liability at the rate of interest for new 30-year treasury bonds. The result is the required refund reserve.

(3) The amount of the refund reserve shall be revised annually by the provider and submitted to the department in conjunction with the annual audit and reports required by Section 1782.5.

(d) Any provider who has a certificate of authority or permit to sell deposit subscriptions issued by the department pursuant to this chapter on or before September 23, 1986, shall be exempt from the refund reserve requirement established by this section if the provider or other entity assuming responsibility has an equity balance of five times the amount of the refund reserve calculated pursuant to subdivision (c), as verified by one or more of the following means: the "stockholders' equity," or equivalent amount,

as reflected on the most recent Form 10K (which may be on a consolidated basis or on a consolidated and combined basis) filed with the Securities and Exchange Commission; the "total fund balances or net worth," or equivalent amount, as reflected on the most recent Form 990 or Form 990-PF filed with the Internal Revenue Service; or the "total net worth," or equivalent amount, as reflected on the most recent Form 109 filed with the Franchise Tax Board.

(1) The amount of the requirement for the equity balance shall be revised annually pursuant to subdivision (c).

(2) Compliance shall be based on review, by the department, of financial statements prepared in accordance with generally accepted accounting principles, accompanied by an unqualified opinion by a licensed certified public accountant.

(3) If the equity balance is determined by the department to be less than the required amount, the provider or other entity assuming responsibility shall post, in a form satisfactory to the department, an amount equal to the refund reserve required within 60 days.

(e) Any life care provider who (1) has a certificate of authority or a permit to sell deposit subscriptions issued by the department pursuant to this chapter on or before the date the Governor signs the bill enacting this section or, if the bill becomes a statute without the Governor's signature, September 30, 1986, whichever date is earlier, and (2) qualifies for the exemption set forth in subdivision (d) of this section shall not be required to provide any further refund reserve or security pursuant to this section or the regulations promulgated hereunder.

CHAPTER 870

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

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

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

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

(a) Preliminary drafts, notes, or interagency or intraagency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

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

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

(d) Contained in or related to:

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

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

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

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

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

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

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

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

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

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

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained, provided, however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the

disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

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

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

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

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

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

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

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

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes,

discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time as a contract or amendment is fully open to inspection by the public.

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

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry concealed weapons issued by the sheriff of a county or the chief or other head of a municipal police department which indicates when or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

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

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 2. Section 6254 of the Government Code is amended to read:

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

(a) Preliminary drafts, notes, or interagency or intraagency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

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

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

(d) Contained in or related to:

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

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

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

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

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

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made,

and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime as defined by subdivision (c) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

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

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

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, or 289 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3

(commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

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

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

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

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

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

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

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

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the

above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6 (commencing with Section 14081), 2.8 (commencing with Section 14087.5), and 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees.

Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. In the event that a contract for inpatient services which is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee. The Joint Legislative Audit Committee shall maintain the confidentiality of the contracts and amendments until such time as a contract or amendment is fully open to inspection by the public.

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

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals which has been transmitted to the State Department of Health Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, which relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 or 11512 of the Insurance Code However, the record shall be open to inspection within one year after the contract is fully executed.

(u) Information contained in applications for licenses to carry concealed weapons issued by the sheriff of a county or the chief or other head of a municipal police department which indicates when

or where the applicant is vulnerable to attack or which concerns the applicant's medical or psychological history or that of members of his or her family.

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

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act.

SEC. 3. Section 2 of this bill incorporates amendments to Section 6254 of the Government Code proposed by both this bill and SB 2523. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 6254 of the Government Code, and (3) this bill is enacted after SB 2523, in which case Section 1 of this bill shall not become operative.

CHAPTER 871

An act to amend Section 987.8 of the Penal Code, relating to counties.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 987.8 of the Penal Code is amended to read:

987.8. (a) Upon a finding by the court that a defendant is entitled to counsel but is unable to employ counsel, the court may hold a hearing or, in its discretion, order the defendant to appear before a county officer designated by the court, to determine whether the defendant owns or has an interest in any real property or other assets subject to attachment and not otherwise exempt by law. The court may impose a lien on any real property owned by the defendant, or in which the defendant has an interest to the extent permitted by law. The county shall have the right to enforce its lien for the payment of providing legal assistance to an indigent defendant in the same manner as other lienholders by way of attachment, except that a county shall not enforce its lien on a defendant's principal place of residence pursuant to a writ of execution.

(b) In any case in which a defendant is provided legal assistance, either through the public defender or private counsel appointed by the court, upon conclusion of the criminal proceedings in the trial court, or upon the withdrawal of the public defender or appointed private counsel, the court may, after notice and a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost thereof. The court may, in its discretion, hold one

such additional hearing within six months of the conclusion of the criminal proceedings. The court may, in its discretion, order the defendant to appear before a county officer designated by the court to make an inquiry into the ability of the defendant to pay all or a portion of the legal assistance provided.

(c) In any case in which the defendant hires counsel replacing a publicly provided attorney; in which the public defender or appointed counsel was required by the court to proceed with the case after a determination by the public defender hat the defendant is not indigent; or, in which the defendant, at the conclusion of the case, appears to have sufficient assets to repay, without undue hardship, all or a portion of the cost of the legal assistance provided to him or her, by monthly installments or otherwise; the court shall make a determination of the defendant's ability to pay as provided in subdivision (b), and may, in its discretion, make other orders as provided in that subdivision.

This subdivision shall be operative in a county only upon the adoption of a resolution by the board of supervisors to that effect.

(d) If the defendant, after having been ordered to appear before a county officer, has been given proper notice and fails to appear before a county officer within 20 working days, the county officer shall recommend to the court that the full cost of the legal assistance shall be ordered to be paid by the defendant. The notice to the defendant shall contain all of the following:

(1) A statement of the cost of the legal assistance provided to the defendant as determined by the court.

(2) The defendant's procedural rights under this section.

(3) The time limit within which the defendant's response is required.

(4) A warning that if the defendant fails to appear before the designated officer, the officer will recommend that the court order the defendant to pay the full cost of the legal assistance provided to him or her.

(e) At a hearing, the defendant shall be entitled to, but shall not be limited to, all of the following rights:

(1) The right to be heard in person.

(2) The right to present witnesses and other documentary evidence.

(3) The right to confront and cross-examine adverse witnesses.

(4) The right to have the evidence against him or her disclosed to him or her.

(5) The right to a written statement of the findings of the court.

If the court determines that the defendant has the present ability to pay all or a part of the cost, the court shall set the amount to be reimbursed and order the defendant to pay the sum to the county in the manner in which the court believes reasonable and compatible with the defendant's financial ability. Failure of a defendant who is not in custody to appear after due notice is a sufficient basis for an order directing the defendant to pay the full cost of the legal

assistance determined by the court. The order to pay all or a part of the costs may be enforced in the manner provided for enforcement of money judgments generally but may not be enforced by contempt.

Any order entered under this subdivision is subject to relief under Section 473 of the Code of Civil Procedure.

(f) Prior to the furnishing of counsel or legal assistance by the court, the court shall give notice to the defendant that the court may, after a hearing, make a determination of the present ability of the defendant to pay all or a portion of the cost of counsel. The court shall also give notice that, if the court determines that the defendant has the present ability, the court shall order him or her to pay all or a part of the cost. The notice shall inform the defendant that the order shall have the same force and effect as a judgment in a civil action and shall be subject to enforcement against the property of the defendant in the same manner as any other money judgment.

(g) As used in this section:

(1) "Legal assistance" means legal counsel and supportive services including, but not limited to, medical and psychiatric examinations, investigative services, expert testimony, or any other form of services provided to assist the defendant in the preparation and presentation of the defendant's case.

(2) "Ability to pay" means the overall capability of the defendant to reimburse the costs, or a portion of the costs, of the legal assistance provided to him or her, and shall include, but not be limited to, all of the following:

(A) The defendant's present financial position.

(B) The defendant's reasonably discernible future financial position. In no event shall the court consider a period of more than six months from the date of the hearing for purposes of determining the defendant's reasonably discernible future financial position. Unless the court finds unusual circumstances, a defendant sentenced to state prison shall be determined not to have a reasonably discernible future financial ability to reimburse the costs of his or her defense.

(C) The likelihood that the defendant shall be able to obtain employment within a six-month period from the date of the hearing.

(D) Any other factor or factors which may bear upon the defendant's financial capability to reimburse the county for the costs of the legal assistance provided to the defendant.

(h) At any time during the pendency of the judgment rendered according to the terms of this section, a defendant against whom a judgment has been rendered may petition the rendering court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to the defendant's ability to pay the judgment. The court shall advise the defendant of this right at the time it renders the judgment.

(i) This section shall apply to all proceedings, including contempt proceedings, in which the party is represented by a public defender

or appointed counsel.

CHAPTER 872

An act to amend Section 341 of the Health and Safety Code, relating to health.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 341 of the Health and Safety Code is amended to read:

341. The Director of Health Services shall establish and administer a program for the medical care of persons with genetically handicapping conditions, including cystic fibrosis, hemophilia, sickle cell disease, Huntington's disease, Friedreich's Ataxia, Joseph's disease, Von Hippel-Landau syndrome, and the following hereditary metabolic disorders: phenylketonuria, homocystinuria, branched chain amino acidurias, disorders of propionate and methylmalonate metabolism, urea cycle disorders, hereditary orotic aciduria, Wilson's Disease, galactosemia, disorders of lactate and pyruvate metabolism, tyrosinemia, hyperornithinemia, and other genetic organic acidemias which require specialized treatment or service available from only a limited number of program-approved sources.

The program shall also provide access to social support services, which may help ameliorate the physical, psychological, and economic problems attendant to genetically handicapping conditions, in order that the genetically handicapped person may function at an optimal level commensurate with the degree of impairment.

The medical and social support services may be obtained through physicians and surgeons, genetically handicapped person's program specialized centers, and other providers that qualify pursuant to the regulations of the department to provide the services. "Medical care," as used in this section, is limited to noncustodial medical and support services.

The director, with the guidance of the Advisory Committee on Genetically Handicapped Person's Program, may, by regulation, expand the list of genetically handicapping conditions covered under this article. The director shall adopt rules and regulations which are necessary for the implementation of this article. The director, with the approval of the advisory committee, shall establish priorities for the use of funds and provision of services under this article.

CHAPTER 873

An act to amend Section 14165.9 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988.]

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

SECTION 1. Section 14165.9 of the Welfare and Institutions Code is amended to read:

14165.9. The commission shall report to the Legislature on January 1 and May 1 of each year. The January report shall include all of the following:

(a) The number and type of health service contracts.

(b) The persons served, cost per service, and other relevant and statistical information.

(c) The projected contract services and estimated costs.

(d) The average per diem rate received by contract hospitals, as of December 1 of the preceding year, shall be reported in the following categories:

(1) Statewide.

(2) By standard consolidated statistical area, as defined by the most recent United States Census.

(3) By that portion of the state not included within a standard consolidated statistical area.

(4) Statewide by hospitals with 1–99 beds, 100–299 beds, and over 300 beds.

(e) The total number of hospitals receiving a net increase, a net decrease, or having a contract rate tied to patient volume during the preceding 12 months.

(f) A discussion of the effects of selective contracting on access to, and quality of, services. In preparing this portion of the report, the commission shall solicit comments from representatives of beneficiaries and providers

The May report shall serve as an update of information contained in subdivisions (a) to (c), inclusive, of the January report.

CHAPTER 874

An act to amend Section 9701 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 9701 of the Welfare and Institutions Code is amended to read:

9701. Unless the contrary is stated or clearly appears from the context, the following definitions shall govern the interpretation of this chapter:

(a) "Long-term care facility" means any of the following:

(1) Any long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(2) Any community care facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, whether licensed or unlicensed.

(3) Any swing bed in an acute care facility, or any extended care facility.

(4) Any residential care facility for the elderly as defined in subdivisions (j) and (k) of Section 1569.2 of the Health and Safety Code.

(b) "Approved organization" means any public agency or other appropriate organization which has been designated by the department to hear, investigate, and resolve complaints made by or on behalf of patients, residents, or clients of long-term care facilities relating to matters which may affect the health, safety, welfare, and rights of these patients, residents, or clients.

(c) "Office" means the Office of the State Long-Term Care Ombudsman, including approved organizations.

(d) "State Ombudsman" means the State Long-Term Care Ombudsman.

(e) "Director" means the Director of the Department of Aging.

(f) "Department" means the Department of Aging.

(g) "Medical training" or "medical records training" means the completion of training as a physician, registered nurse, nurse practitioner, licensed vocational nurse, pharmacist, medical social worker, medical records technician, physician's assistant, or discharge planner.

(h) "Ombudsman coordinator" means the individual selected by the governing board or executive director of the approved organization to manage the day-to-day operation of the ombudsman program, including the implementation of federal and state requirements governing the office.

CHAPTER 875

An act to amend Section 9701 of the Welfare and Institutions Code, relating to aging.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 13, 1988]

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

SECTION 1. Section 9701 of the Welfare and Institutions Code is amended to read:

9701. Unless the contrary is stated or clearly appears from the context, the following definitions shall govern the interpretation of this chapter:

(a) "Long-term care facility" means any of the following:

(1) Any long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(2) Any community care facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, whether licensed or unlicensed.

(3) Any swing bed in an acute care facility, or any extended care facility.

(4) Any residential care facility for the elderly as defined in subdivisions (j) and (k) of Section 1569.2 of the Health and Safety Code.

(b) "Approved organization" means any public agency or other appropriate organization which has been designated by the department to hear, investigate, and resolve complaints made by or on behalf of patients, residents, or clients of long-term care facilities relating to matters which may affect the health, safety, welfare, and rights of these patients, residents, or clients.

(c) "Office" means the Office of the State Long-Term Care Ombudsman, including approved organizations.

(d) "State Ombudsman" means the State Long-Term Care Ombudsman.

(e) "Director" means the Director of the Department of Aging.

(f) "Department" means the Department of Aging.

(g) "Medical training" or "medical records training" means the completion of training as a physician, registered nurse, nurse practitioner, licensed vocational nurse, pharmacist, medical social worker, medical records technician, physician's assistant, or discharge planner.

(h) "Ombudsman coordinator" means the individual selected by the governing board or executive director of the approved organization to manage the day-to-day operation of the ombudsman program, including the implementation of federal and state requirements governing the office.

CHAPTER 876

An act to add Section 25283.5 to the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 25283.5 is added to the Health and Safety Code, to read:

25283.5. An underground storage tank which meets all of the following criteria is exempt from the requirements of this chapter:

(a) All exterior surfaces of the tank, including connected piping, and the floor directly beneath the tank, can be monitored by direct viewing.

(b) The structure in which the tank is located is constructed in such a manner that the structure provides for secondary containment of the contents of the tank, as determined by the local agency designated pursuant to Section 25283.

(c) The owner or operator of the underground storage tank conducts daily inspections of the tank and maintains a log of inspection results for review by the local agency, designated pursuant to Section 25283, as requested by the local agency.

(d) The local agency designated pursuant to Section 25283 determines without objection from the State Water Resources Control Board that the underground storage tank meets requirements which are equal to or more stringent than those imposed by this chapter.

(e) The underground storage tank is located in a county of the third class, as defined in Section 28024 of the Government Code.

CHAPTER 877

An act to amend Sections 605, 27459.6, and 36101 of, and to add and repeal Section 27459.5 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 605 of the Vehicle Code is amended to read:

605. (a) "Tire chains" are chains or other devices which are designed for use on tires to improve stopping, traction, and cornering ability upon snow or ice-covered surfaces and which meet all of the following criteria:

(1) Crossmembers are spaced to provide at least one crossmember in contact with the roadway at all times.

(2) Each crossmember extends across at least 85 percent of the width of the tread.

(3) Major traction elements at least $\frac{9}{32}$ inch in height on each crossmember at time of manufacture.

(4) At least four separate steel elements are in contact with the roadway at all times on each crossmember.

(5) Each crossmember is connected to two circular loops, one on each side of the tire, except for mechanisms designed to deploy and retract metal crossmembers under the tire when the vehicle is in motion.

(b) This section shall remain in effect only until January 1, 1990, at which time it is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. Section 27459.5 is added to the Vehicle Code, to read:

27459.5. (a) No person shall sell, offer for sale, lease, install, or replace on a vehicle for use on a highway, any tire chains which are not in compliance with requirements specified in Section 605.

(b) This section shall remain in effect only until January 1, 1990, at which time it is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 3. Section 27459.6 of the Vehicle Code is amended to read:

27459.6. The department shall study the effectiveness of tire chains meeting the criteria of Section 605. The study shall include, but not be limited to, the effects on winter driving in chain control areas. The department may utilize funds from private sources in the conduct of the study. The study shall be submitted to the Legislature not later than December 31, 1989.

SEC. 4. Section 36101 of the Vehicle Code is amended to read:

36101. The following farm vehicles are exempt from registration, if they have and display an identification plate as specified in Section 5014, and the vehicles shall not be deemed to be implements of husbandry and they shall be subject to all equipment and device requirements as if registered:

(a) A motor vehicle of a size so as to require a permit under Section 35780 owned and operated by a farmer, designed and used exclusively for carrying or returning empty from carrying feed and seed products of farming, and used on a highway between one part of a farm to another part thereof or from one farm to another farm.

(b) A vehicle equipped with a water tank owned by a farmer and used exclusively to service his or her own implements of husbandry.

(c) A water tank truck, which is owned by a farmer, not operated for compensation, and used extensively in the conduct of agricultural operations, when used exclusively (1) for sprinkling water on dirt roads providing access to agricultural fields or (2) transportation of water for irrigation of crops or trees.

(d) A cotton module mover, as defined in Section 36012.

(e) A trailer which is equipped with a plenum chamber for the

drying of agricultural commodities.

(f) Except as provided in subdivision (j) of Section 36005, a trap wagon, as defined in Section 36016, which is equipped with a fuel tank or tanks. The fuel tank or tanks shall not exceed 3,000 gallons total capacity.

(g) A forklift truck, operated by a farmer not for compensation. For purposes of this section, a hay-squeeze shall be deemed a forklift.

(h) A truck tractor or truck tractor and semitrailer combination specified in this subdivision which is owned by a farmer and operated on the highways only incidental to a farming operation and not for compensation. This subdivision applies only to truck tractors with a manufacturer's gross vehicle weight rating over 10,000 pounds that are equipped with all-wheel drive and off-highway traction tires on all wheels, and only to semitrailers used in combination with such a truck tractor and exclusively in the production or harvesting of melons. The vehicles specified in this subdivision shall not be operated in excess of 25 miles per hour on the highways and may be operated on the highways by a person holding a valid class 3 driver's license.

The Commissioner of the California Highway Patrol may, by regulation, prohibit the vehicles specified in this subdivision from operating on specific routes. These vehicles shall not be operated laden on the highway for more than two miles from the point of origin and shall not be operated for more than 30 miles unladen on the highway from the point of origin. These vehicles shall not be operated for more than 15 miles unladen on the highway from the point of origin, unless accompanied by an escort vehicle to the front, and an escort vehicle to the rear.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 878

An act to amend Sections 99244, 130052, 130108, and 180100 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 99244 of the Public Utilities Code is amended to read:

99244. Each transportation planning agency shall annually

identify, analyze, and recommend potential productivity improvements which could lower the operating costs of those operators who operate at least 50 percent of their vehicle service miles, as defined in subdivision (i) of Section 99247, within the area under its jurisdiction. However, where a transit development board created pursuant to Division 11 (commencing with Section 120000) or a county transportation commission exists, the board or commission, as the case may be, shall have the responsibility of the transportation planning agency with respect to potential productivity improvements. The recommendations for improvements and productivity shall include, but not be limited to, those recommendations related to productivity made in the performance audit conducted pursuant to Section 99246.

A committee for the purpose of providing advice on productivity improvements may be formed by the responsible entity. The membership of this committee shall consist of representatives from the management of the operators, organizations of employees of the operators, and users of the transportation services of the operators located within the area under the jurisdiction of the responsible entity.

Prior to determining the allocation to an operator for the next fiscal year, the responsible entity shall review and evaluate the efforts made by the operator to implement such recommended improvements.

If the responsible entity determines that the operator has not made a reasonable effort to implement the recommended improvements, the responsible entity shall not approve the allocation to the operator for the support of its public transportation system for the next fiscal year which exceeds the allocation to the operator for such purposes for the current fiscal year.

SEC. 2. Section 130052 of the Public Utilities Code is amended to read:

130052. The Orange County Transportation Commission shall consist of eight members appointed as follows:

(a) Three members of the Orange County Board of Supervisors appointed by that board, to serve ex officio, one of whom shall serve on the Board of Directors of the Orange County Transit District.

(b) Three members appointed by the Orange County City Selection Committee, one of whom shall serve on the Board of Directors of the Orange County Transit District. Each member appointed by the city selection committee shall be a resident of a different supervisorial district and shall be a mayor or a city councilman serving within the county, to serve ex officio.

(c) One member appointed by a majority vote of the other six voting members of the commission, which member shall be a resident of Orange County who is not then serving, and has not within the last four years served, as an elected official of a city within the county, as an elected official of the county, or as a public member on the Board of Directors of the Orange County Transit District.

(d) One nonvoting member appointed by the Governor.

(e) Appointments of members pursuant to subdivision (a) or (b) shall be made in a manner so that at all times each of the five supervisorial districts of Orange County shall be represented by at least one supervisor or one mayor or city councilman.

SEC. 3. Section 130108 of the Public Utilities Code is amended to read:

130108. Each member of a commission may be compensated at a rate not exceeding one hundred dollars ($100) for any day attending to the business of the commission, but not to exceed four hundred dollars ($400) in any month, and the necessary traveling and personal expenses incurred in the performance of his duties as authorized by the commission.

SEC. 4. Section 180100 of the Public Utilities Code is amended to read:

180100. The authority at its first meeting, and thereafter annually at the meeting designated by the authority, shall elect a chairperson who shall preside at all meetings, and a vice chairperson who shall preside in the absence of the chairperson. In the event of their absence or inability to act, the members present, by an order entered in the minutes, shall select one of their members to act as chairperson pro tempore, who, while so acting, shall have all the authority of the chairperson.

CHAPTER 879

An act to amend Section 9409 of the Welfare and Institutions Code, relating to elderly persons.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 9409 of the Welfare and Institutions Code is amended to read:

9409. This chapter shall remain in effect until the state establishes a new local long-term care delivery system pursuant to the Torres-Felando Long-Term Care Reform Act (Chapter 1453 of the Statutes of 1982) or until June 30, 1990, whichever comes first and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

CHAPTER 880

An act to amend Section 218 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 218 of the Public Utilities Code is amended to read:

218. (a) "Electrical corporation" includes every corporation or person owning, controlling, operating, or managing any electric plant for compensation within this state, except where electricity is generated on or distributed by the producer through private property solely for its own use or the use of its tenants and not for sale or transmission to others.

(b) "Electrical corporation" does not include a corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity solely for any one or more of the following purposes:

(1) Its own use or the use of its tenants.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated or on real property immediately adjacent thereto, unless there is an intervening public street constituting the boundary between the real property on which the electricity is generated and the immediately adjacent property and one or more of the following applies:

(A) The real property on which the electricity is generated and the immediately adjacent real property is not under common ownership or control, or that common ownership or control was gained solely for purposes of sale of the electricity so generated and not for other business purposes.

(B) The useful thermal output of the facility generating the electricity is not used on the immediately adjacent property for petroleum production or refining.

(C) The electricity furnished to the immediately adjacent property is not utilized by a subsidiary or affiliate of the corporation or person generating the electricity.

(3) Sale or transmission to an electrical corporation or state or local public agency, but not for sale or transmission to others, unless the corporation or person is otherwise an electrical corporation.

(c) "Electrical corporation" does not include a corporation or person employing landfill gas technology for the generation of electricity for any one or more of the following purposes:

(1) Its own use or the use of not more than two of its tenants located on the real property on which the electricity is generated.

(2) The use of or sale to not more than two other corporations or persons solely for use on the real property on which the electricity is generated.

(3) Sale or transmission to an electrical corporation or state or local public agency.

(c) The amendments made to this section at the 1987 portion of the 1987–88 Regular Session of the Legislature do not apply to any corporation or person employing cogeneration technology or producing power from other than a conventional power source for the generation of electricity which physically produced electricity prior to January 1, 1989, and furnished that electricity to immediately adjacent real property for use thereon prior to January 1, 1989.

CHAPTER 881

An act to add Title 9.3 (commencing with Section 1298) to Part 3 of the Code of Civil Procedure, relating to arbitration.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Title 9.3 (commencing with Section 1298) is added to Part 3 of the Code of Civil Procedure, to read:

TITLE 9.3. REAL ESTATE CONTRACT ARBITRATION

1298. (a) Whenever any contract to convey real property, or contemplated to convey real property in the future, including marketing contracts, deposit receipts, real property sales contracts as defined in Section 2985 of the Civil Code, leases together with options to purchase, or ground leases coupled with improvements, but not including powers of sale contained in deeds of trust or mortgages, contains a provision for arbitration of any dispute between the principals in the transaction, the contract shall have such provision clearly titled "ARBITRATION OF DISPUTES."

If a provision for arbitration is included in a printed contract, it shall be set out in at least 10-point bold type or in contrasting red in at least 8-point type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(b) Whenever any contract or agreement between principals and agents in real property sales transactions, including listing agreements, as defined in Section 1086 of the Civil Code, contains a provision requiring arbitration of any dispute between the principals and agents in the transaction, the contract or agreement shall have that provision clearly titled "ARBITRATION OF DISPUTES."

If a provision for arbitration is included in a printed contract, it

shall be set out in at least 10-point bold type or in contrasting red in at least 8-point type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(c) Immediately before the line or space provided for the parties to indicate their assent or nonassent to the arbitration provision described in subdivision (a) or (b), and immediately following that arbitration provision, the following shall appear:

"NOTICE: BY INITIALLING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALLING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

If the above provision is included in a printed contract, it shall be set out either in at least 10-point bold type or in contrasting red print in at least 8-point bold type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(d) Nothing in this section shall be construed to diminish the authority of any court of competent jurisdiction with respect to real property transactions in areas involving court supervision or jurisdiction, including, but not limited to, probate, marital dissolution, foreclosure of liens, or eminent domain.

(e) In the event an arbitration provision is contained in an escrow instruction, it shall not preclude the right of an escrowholder to institute an interpleader action.

1298.5. Any party to an action who proceeds to record a notice of pending action pursuant to Section 409 shall not thereby waive any right of arbitration which that person may have pursuant to a written agreement to arbitrate, nor any right to petition the court to compel arbitration pursuant to Section 1281.2, if, in filing an action to record that notice, the party at the same time presents to the court an application that the action be stayed pending the arbitration of any dispute which is claimed to be arbitrable and which is relevant to the action.

1298.7. In the event an arbitration provision is included in a

contract or agreement covered by this title, it shall not preclude or limit any right of action for bodily injury or wrongful death, or any right of action to which Section 337.1 or 337.15 is applicable.

1298.8. This title shall become operative on July 1, 1989, and shall only apply to contracts or agreements entered into on or after that date.

CHAPTER 882

An act to add Section 4028.5 to the Health and Safety Code, relating to health.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 4028.5 is added to the Health and Safety Code, to read:

4028.5. (a) When a well, which is used as a source of drinking water for a public water system, is discovered to include, or is closed due to the presence of, a contaminant in excess of a maximum contaminant level or an action level established by the department, the person operating the public water system shall notify the governing body of the local agency in which users of the drinking water reside within 30 days of the discovery or closure.

(b) The notification required by subdivision (a) shall include the location of any affected well, its name, its type, the origin, if known, of the contaminant, the maximum contaminant level or action level for the contaminant detected and the operational status of the well immediately prior to its closure.

(c) For purposes of this section, the following terms have the following meanings:

(1) "Action level" means the concentration level of a contaminant in potable water which the department has determined, based on available scientific information, provides an adequate margin of safety to prevent potential risks to human health.

(2) "Local agency" means a city or county, or a city and county.

CHAPTER 883

An act to amend Section 439.3 of the Health and Safety Code, relating to health planning.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 439.3 of the Health and Safety Code is amended to read:

439.3. Commencing on January 1, 1986, and continuing by January 1 of each year thereafter, the Office of Statewide Health Planning and Development shall prepare and submit to the Governor and to the Legislature a State Health Plan.

(a) In odd-numbered years, the State Health Plan shall include, but not be limited to, all of the following:

(1) A description of the distribution of health care services in the state with an emphasis on areas of shortages of health facilities, services, and manpower.

(2) A forecast of the future community need for health facilities, services, manpower, and capital.

(3) All elements of the Health Manpower Plan required by Section 429.94. Compliance with this section shall be deemed compliance with Sections 429.94 and 429.96. However, the office shall consult with the entities set forth in Section 429.95 when preparing this portion of the State Health Plan.

(4) All elements of the Statewide Health Facilities and Services Plan specified in subdivision (b) of Section 437.7 after the plan is formally adopted pursuant to subdivision (b) of Section 437.7.

(b) In even-numbered years, the State Health Plan shall include, but need not be limited to, all of the following:

(1) An evaluation of the costs and benefits of regulation, deregulation, and competition on health care, including an assessment of their impact on the availability, access, cost, and quality of services.

(2) Any policy recommendations that may facilitate the development of needed health care resources.

(3) An evaluation of the effects of regulation, deregulation, and competition on cardiac catheterization services and open heart surgery with extra-corporeal bypass, including an assessment of their impact on the availability, access, cost, and quality of service. The office shall utilize existing data sources and develop indicators of quality of service for cardiac catheterization services and open heart surgery with extra-corporeal bypass.

(4) When preparing the evaluation required by paragraph (3), the director shall seek the advice of the technical advisory committee established pursuant to Section 444.6 or 444.39. For the

purposes of this subdivision, the director shall temporarily appoint two additional members to the technical advisory committee, one of whom shall be a representative of a hospital that offers open heart surgery with extra-corporeal bypass and one of whom shall be a representative of a hospital that plans to offer that surgery.

(5) Any recommendations resulting from the evaluation and assessment required by paragraph (3) shall be included in the State Health Plan and submitted to the Governor and to the Legislature. No additional regulation, and no action to restrict new or existing providers of cardiac surgery or cardiac catheterization services from providing the surgeries or services specified in paragraph (3), shall occur as a result of the evaluation, assessment, and recommendations, if any, unless specific regulatory authority is subsequently granted by the Legislature.

(c) In both even and odd years, the State Health Plan shall include an evaluation of the effects of competition, regulation and deregulation on special populations, including the uninsured, underinsured, unemployed, and those who are otherwise disadvantaged.

Notwithstanding subdivision (b), the evaluation required by paragraph (3) of subdivision (b) shall be reported only in the 1990 state plan with the option for reporting in the 1992 plan at the discretion of the office.

CHAPTER 884

An act to amend Section 5353 of the Elections Code, relating to elections.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 5353 of the Elections Code is amended to read:

5353. (a) Each city, county, school district, community college district, county board of education, and special district may hold, at its discretion, an advisory election on any date on which that respective jurisdiction is currently permitted to hold a regular or special election for the purpose of allowing voters within the respective jurisdiction, or a portion thereof, to voice their opinion on substantive issues or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as such on the ballot as a heading above the ballot proposal and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of

general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

(d) An advisory election may be held in territory outside of the jurisdiction of the local entity calling the advisory election if the ballot proposal affects the residents of the territory. The sponsoring legislative body shall determine the territory in which the advisory election shall be held. However, the conduct of an advisory election in territory outside of the jurisdiction of the local entity shall only be held if all of the following conditions are met:

(1) A regular election or special election is to be held in that territory.

(2) The advisory election can be consolidated with it.

(3) The board of supervisors of the county in which the outside territory is located approves the consolidation.

(e) An advisory election shall not be permitted to be consolidated with an election if the ballot's capacity will be exceeded because of the addition of the advisory election.

CHAPTER 885

An act to amend Section 25208.13 of, and to add and repeal Sections 25208.20 and 25208.21 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 25208.13 of the Health and Safety Code is amended to read:

25208.13. (a) If the regional board determines that certain mining wastes have properties so that the wastes do not pollute or threaten to pollute the waters of the state when discharged into a surface impoundment which is in compliance with all applicable regulations adopted by the state board pursuant to Division 7 (commencing with Section 13000) of the Water Code, the regional board may exempt a surface impoundment into which these mining wastes are discharged from Sections 25208.4 and 25208.5, pursuant to subdivision (b).

(b) A person may apply to a regional board authorized pursuant to subdivision (a) for an exemption from Section 25208.4 or 25208.5, or from both sections, for a surface impoundment, into which mining wastes are discharged by filing an application with the regional board. If the surface impoundment was constructed before January 1, 1984, the person shall file the application with a regional board by January 1, 1986. Except as provided in subdivision (c), the initial

application for exemption shall include a completed hydrogeological assessment report which contains the accurate data and documentation specified in Section 25208.8. A regional board may grant the applicant an exemption from Section 25208.4 or 25208.5, or both, if the regional board makes both of the following findings:

(1) The applicant for the exemption has fully complied with all the applicable regulations adopted by the state board for mining waste.

(2) The surface impoundment does not pollute or threaten to pollute the waters of the state.

(c) If the regional board grants an exemption pursuant to subdivision (b), the regional board shall revise the waste discharge requirements prescribed pursuant to Section 13263 of the Water Code for that surface impoundment based upon a review of the report and shall include conditions in the waste discharge requirement to ensure that the waters of the state will not be polluted or threatened with pollution. Except as hereafter provided, if the regional board does not grant the exemption within two years of the date of application, the applicant shall comply with the requirements specified in either Section 25208.4 or 25208.5, or with both sections, whichever is applicable, within three years from the initial date of application. If the applicant submitted the hydrogeologic assessment report on or before January 1, 1986, and the regional board determines that the report submitted contains insufficient information to allow the regional board to complete a reasoned evaluation and the applicant did not receive notice in writing of the deficiencies on or before January 1, 1988, the applicant may be granted up to a maximum of one year from the date of written notification of the deficiencies for the sole purpose of providing the information necessary to correct the deficiencies. Upon receipt of the additional information, the regional board shall complete the evaluation and may grant an exemption in accordance with this section within 60 days. If the regional board denies the exemption, the applicant shall comply with the requirements specified in either Section 25208.4 or 25208.5, or with both sections, whichever is applicable, within one year of the date of denial.

(d) An exemption granted pursuant to subdivision (b) shall not be effective for more than five years. A regional board shall not renew the exemption unless the regional board makes the findings specified in subdivision (b).

(e) Applications for an exemption or renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3.

(f) If a regional board determines that a surface impoundment granted an exemption pursuant to subdivision (b) is polluting the waters of the state, the regional board shall take all of the actions specified in Section 25208.6.

SEC. 2. Section 25208.20 is added to the Health and Safety Code, to read:

25208.20. (a) Notwithstanding any other provision of this article, the regional board may grant a person an exemption from the requirements and prohibitions of this article for a surface impoundment if the applicant demonstrates, and the regional board determines, that the surface impoundment meets the criteria listed in subdivision (b), the person complies with the procedures specified in subdivisions (c) and (d), and that the environmental benefit of discharging to the surface impoundment as a remedial measure outweighs any threat to water quality posed by the surface impoundment.

(b) The regional board may grant an exemption pursuant to this section only if the surface impoundment meets both of the following requirements:

(1) The surface impoundment was used or constructed at the direction of the state board or regional board to cleanup or abate a condition of pollution or nuisance resulting from discharges of mining waste to surface waters from a mine which ceased operations prior to January 1, 1988.

(2) The regional board has issued waste discharge requirements for the operation of the surface impoundment, or waived the issuance of waste discharge requirements. The regional board shall adopt findings in support of its action if it has waived the issuance of waste discharge requirements.

(c) To qualify for an exemption under this section, the person shall apply to the regional board for an exemption and shall file a technical report with the regional board on or before July 1, 1989. The technical report shall contain sufficient information for the regional board to determine if the surface impoundment is polluting or threatening to pollute waters of the state, and if hazardous waste constituents are migrating from the surface impoundment. The technical report shall include, but not be limited to, all of the following information:

(1) Characterization of the waste constituents.

(2) An analysis of the effectiveness of the containment structure.

(3) Operation plans to prevent the migration of hazardous waste to groundwater.

(4) Groundwater monitoring data.

(d) The regional board shall notify an applicant, not later than 60 days after the receipt of an application and technical report submitted pursuant to subdivision (c), if either the application or technical report do not comply with this section. If the regional board determines that the application or technical report does not comply with this section, the applicant shall provide additional information to the regional board within 90-days after receiving notice of noncompliance. The regional board shall not consider for exemption the application or technical report if the additional information required is received after the 90-day period.

(e) The regional board shall act on an exemption application within 180 days of receipt of a complete technical report. If the

exemption application is approved, the regional board shall conduct annual inspections of the surface impoundment.

(f) If a regional board determines that the surface impoundment exempted pursuant to this section is polluting or threatening to pollute waters of the state, the person who received the exemption shall take all feasible steps to abate that threat.

(g) If the regional board finds that the surface impoundment exempted pursuant to this section is not in compliance with any of the requirements of this section, the regional board shall revoke the exemption. If the exemption is revoked, all of the requirements and prohibitions of this article shall apply to the surface impoundment.

(h) Nothing in this section alters or diminishes any authority of the state board or regional boards under Division 7 (commencing with Section 13000) of the Water Code, including any regulations adopted pursuant thereto.

(i) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1993, deletes or extends that date.

SEC. 3. Section 25208.21 is added to the Health and Safety Code, to read:

25208.21. (a) Notwithstanding any other provision of this article, the regional board may grant a person an exemption from the requirements and prohibitions of this article for a surface impoundment if the applicant demonstrates, and the regional board determines, that the surface impoundment meets the criteria listed in subdivision (b), and the person complies with the procedures specified in subdivisions (c) and (d), and the surface impoundment is used as part of a mineral mining operation.

(b) The regional board may grant an exemption pursuant to this section only if the surface impoundment meets all of the following requirements:

(1) The hazardous constituents contained in the surface impoundment originated from the groundwater underlying the surface impoundment.

(2) The surface impoundment is not within one-half mile of a potential source of drinking water.

(3) The surface impoundment is used for purposes of recharging groundwater levels, as required by the Bureau of Land Management.

(4) The regional board has issued waste discharge requirements as of January 1, 1985, for the operation of the surface impoundment.

(c) To qualify for an exemption under this section, the person shall apply to the regional board for an exemption and shall file a technical report with the regional board on or before July 1, 1989, together with an initial filing fee of three thousand dollars ($3,000). The regional board shall deposit the fee revenues in the Surface Impoundment Assessment Account in the General Fund. The technical report shall contain sufficient information for the regional board to determine if the surface impoundment is polluting or threatening to pollute a potential source of drinking water. The

technical report shall include, but not be limited to, all of the following information:

(1) Characterization of the waste constituents.

(2) An analysis of the containment structure.

(3) Groundwater monitoring data, including depth, flow direction, and chemical characterization.

(d) The regional board shall notify an applicant, not later than 60 days after the receipt of an application and technical report submitted pursuant to subdivision (c), if either the application or technical report do not comply with this section. If the regional board determines that the application or technical report does not comply with this section, the applicant shall provide additional information to the regional board within 90 days after receiving notice of noncompliance. The regional board shall not consider for exemption the application or technical report if the additional information required is received after the 90-day period.

(e) The regional board shall act on an exemption application within 180 days of receipt of a complete technical report. If the exemption application is approved, the regional board shall conduct annual inspections of the surface impoundment.

(f) Notwithstanding Section 25208.3, each person granted an application for an exemption pursuant to subdivison (e) shall pay only the application fee provided in subdivision (c) and any additional fees assessed by the state board to recover actual costs incurred by the state board and regional boards to administer this section. A person filing an application pursuant to subdivision (c) is not required to pay any fees assessed pursuant to Section 25208.3.

(g) If a regional board determines that the surface impoundment exempted pursuant to this section is polluting or threatening to pollute a potential source of drinking water, the person who received the exemption shall take all feasible steps to abate that threat.

(h) If the regional board determines that the surface impoundment exempted pursuant to this section is not in compliance with any of the requirements of this section, the regional board shall revoke the exemption. If the exemption is revoked, all provisions of this article shall apply to the surface impoundment.

(i) Nothing in this section alters or diminishes any authority of the state board or regional boards under Division 7 (commencing with Section 13000) of the Water Code, including any regulations adopted pursuant thereto.

(j) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1993, deletes or extends that date.

CHAPTER 886

An act to amend Section 901 of, and to add Section 936.7 to, the Penal Code, relating to grand juries.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 901 of the Penal Code is amended to read:

901. (a) The persons whose names are so returned shall be known as regular jurors, and shall serve for one year and until other persons are selected and returned.

(b) If the superior court so decides, the presiding judge may name up to 10 regular jurors not previously so named, who served on the previous grand jury and who so consent, to serve for a second year.

(c) The court may also decide to select grand jurors pursuant to Section 908.2.

SEC. 2. Section 936.7 is added to the Penal Code, to read:

936.7. (a) In a county of the eighth class, as defined by Sections 28020 and 28029 of the Government Code, upon a request by the grand jury, the presiding judge of the superior court may retain, in the name of the county, a special counsel to the grand jury. The request shall be presented to the presiding judge in camera, by an affidavit, executed by the foreperson of the grand jury, which specifies the reason for the request and the nature of the services sought, and which certifies that the appointment of the special counsel is reasonably necessary to aid the work of the grand jury. The affidavit shall be confidential and its contents may not be made public except by order of the presiding judge upon a showing of good cause. The special counsel shall be selected by the presiding judge following submission of the name of the nominee to the board of supervisors for comment.

The special counsel shall be retained under a contract executed by the presiding judge in the name of the county. The contract shall contain the following terms:

(1) The types of legal services to be rendered to the grand jury; provided, (i) that the special counsel's duties shall not include any legal advisory, investigative, or prosecutorial service which by statute is vested within the powers of the district attorney, and (ii) that the special counsel may not perform any investigative or prosecutorial service whatsoever except upon advance written approval by the presiding judge which specifies the number of hours of these services, the hourly rate therefor, and the subject matter of the inquiry.

(2) The hourly rate of compensation of the special counsel for legal advisory services delivered, together with a maximum contract amount payable for all services rendered under the contract during

the term thereof, and all service authorizations issued pursuant thereto.

(3) That the contract may be canceled in advance of the expiration of its term by the presiding judge pursuant to service upon the special counsel of 10 days' advance written notice.

(b) The maximum contract amount shall be determined by the board of supervisors and included in the grand jury's annual operational budget. The maximum amount shall be subject to increase by the presiding judge through contract amendment during the term thereof, subject to and in compliance with the procedure prescribed by Section 914.5.

(c) The contract shall constitute a public record and shall be subject to public inspection and copying pursuant to the provisions of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). However, at the sole discretion of the board of supervisors, any or all of the following steps may be taken:

(1) The nomination by the presiding judge, and any or all actions by the board of supervisors in commenting upon the nominee and the comments, may be made confidential.

(2) The deliberations and actions may be undertaken in meetings from which the public is excluded, and the communication containing comments may constitute a confidential record which is not subject to public inspection or copying except at the sole discretion of the board of supervisors. Moreover, any written authorization by the presiding judge pursuant to paragraph (1) of subdivision (a) shall constitute a confidential record which is not subject to public inspection or copying except in connection with a dispute concerning compensation for services rendered.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 4. Section 2 of this act is necessary since special facts and circumstances applicable to Sacramento County and not generally applicable, make the accomplishment of this purpose impossible by any general law. Special legislation is therefore necessary applicable to Sacramento County only. The special facts are as follows:

Sacramento County has an exceedingly large, urbanized unincorporated area population requiring high levels of police and fire protection, garbage and refuse collection, recreational and park and other similar public services. Such services are delivered by the county and by a multiplicity of special taxing districts. The grand jury, in the exercise of its power to investigate the county and special taxing districts pertaining to delivery of such services, requires a higher level of legal advisory assistance than the Sacramento County Counsel is staffed to provide.

CHAPTER 887

An act to add and repeal Article 5.6 (commencing with Section 389.10) to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, relating to professional nurse recruitment centers, and making an appropriation therefor.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Article 5.6 (commencing with Section 389.10) is added to Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 5.6. Regional Model Professional Nurse Recruitment Centers

389.10. The Legislature finds and declares all of the following:

Registered nurses are the largest single group of healthcare professionals in the United States.

Eighty percent of the hospitals in California are reporting vacancies in registered nurse positions.

The demand for registered nurses is outstripping the supply as a result of a rising acuity of patients, an increasing aging population, and the development of alternative health delivery systems creating additional needs for registered nurses.

The number of applicants to all types of nursing programs has been dropping since 1983. There has been a 20 percent decline in enrollment.

Women represent the majority of undergraduate enrollment in colleges but are increasingly pursuing careers in business, medicine, engineering, and science.

Nursing recruitment efforts must be enhanced and should include recruitment of men and women who are choosing other fields, and should also include recruitment of men and women who are members of ethnic or racial minorities.

It has been a federal priority to recruit persons into other professions while the need for additional nurses has been overlooked. Unless action is taken to encourage more qualified individuals to enter the nursing profession, the shortage of registered nurses is likely to continue and worsen for the foreseeable future.

It is estimated that California hospitals will spend two hundred ninety-four million dollars ($294,000,000) recruiting nurses in 1988.

Approximately 97 percent of nurses are women and approximately 80 percent of all nurses are actively employed in health care, whereas only 54 percent of American women are employed. It is the highest labor participation rate of any female group of workers.

389.15. (a) The Office of Statewide Health Planning and Development shall develop a comprehensive plan to improve the recruitment of persons to enter education programs for training as registered nurses. The plan shall identify and review existing efforts by educational institutions, hospitals, other health facilities, and community organizations that are currently recruiting individuals for training as registered nurses. The review of existing recruitment activities shall include all of the following:

(1) How programs identify potential applicants, including male applicants.

(2) How programs recruit persons from the following groups:

(A) Individuals attending school in any of the grades 7 to 12, inclusive.

(B) Individuals enrolled in colleges and universities who have not declared a major field of study.

(C) Adults who are not attending school and may desire to enter nursing.

(D) Adults seeking a career change.

(E) College graduates unable to find employment in their field of study.

(3) How programs ensure that individuals from underrepresented members of racial and ethnic minorities are included among individuals recruited.

(4) How programs identify employment opportunities that are available for graduates of nursing programs.

(5) How programs make use of community and professional associations, hospitals, career and guidance counselors, and the print and broadcast media, in disseminating information about the opportunities of a nursing career.

(b) The comprehensive plan shall be submitted to the Legislature by July 1, 1989, and shall include recommendations for supporting and improving existing recruitment efforts of individuals to enter education programs for training as registered nurses.

389.20. (a) The Office of Statewide Health Planning and Development is authorized to make grants and enter into contracts with public and nonprofit entities to support and improve programs that have the purpose of recruiting of individuals to enter education programs for training as registered nurses.

(b) The office shall develop an application process that provides for solicitation of proposals from public and nonprofit entities whose purpose is the recruiting of individuals to enter education programs for training as registered nurses. No grant may be made and no contract may be entered into under this article unless an application therefor is submitted to the Office of Statewide Health Planning and Development.

389.25. This article shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 2. The sum of fifty thousand dollars ($50,000) is hereby appropriated from the California Health Data and Planning Fund to the Office of Statewide Health Planning and Development for activities pursuant to Article 5.6 (commencing with Section 389.10) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code, for the 1988–89 fiscal year.

It is the intent of the Legislature that the sums as may be necessary for grants and contracts under Section 389.20 of the Health and Safety Code for each of the 1989–90 and 1990–91 fiscal years be appropriated in the annual Budget Act.

CHAPTER 888

An act to amend Sections 1317.2, 1317.3, 1317.6, 1317.7, and 1798.172 of, and to repeal Section 1317.9 of, the Health and Safety Code, relating to hospital emergency patient transfer, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 1317.2 of the Health and Safety Code is amended to read:

1317.2. No person needing emergency services and care may be transferred from a hospital to another hospital for any nonmedical reason (such as the person's inability to pay for any emergency service or care) unless each of the following conditions are met:

(a) The person is examined and evaluated by a physician and surgeon, including, if necessary, consultation, prior to transfer.

(b) The person has been provided with emergency services and care so that it can be determined, within reasonable medical probability, that the transfer or delay caused by the transfer will not create a medical hazard to the person.

(c) A physician and surgeon at the transferring hospital has notified and has obtained the consent to the transfer by a physician and surgeon at the receiving hospital and confirmation by the receiving hospital that the person meets the hospital's admissions criteria relating to appropriate bed, personnel, and equipment necessary to treat the person.

(d) The transferring hospital provides for appropriate personnel and equipment which a reasonable and prudent physician and surgeon in the same or similar locality exercising ordinary care would use to effect the transfer.

(e) All the person's pertinent medical records and copies of all the appropriate diagnostic test results which are reasonably available are transferred with the person.

(f) The records transferred with the person include a "Transfer Summary" signed by the transferring physician and surgeon which contains relevant transfer information. The form of the "Transfer Summary" shall, at a minimum, contain the person's name, address, sex, race, age, insurance status, and medical condition; the name and address of the transferring physician and surgeon or emergency department personnel authorizing the transfer; the time and date the person was first presented at the transferring hospital; the name of the physician and surgeon at the receiving hospital consenting to the transfer and the time and date of the consent; the time and date of the transfer; the reason for the transfer; and the declaration of the signor that the signor is assured, within reasonable medical probability, that the transfer creates no medical hazard to the patient. Neither the transferring physician and surgeon nor transferring hospital shall be required to duplicate, in the "Transfer Summary," information contained in medical records transferred with the person.

(g) The transfer conforms with regulations established by the state department. These regulations may prescribe minimum protocols for patient transfers.

(h) Nothing in this section shall apply to a transfer of a patient for medical reasons.

(i) Nothing in this section shall prohibit the transfer or discharge of a patient when the patient or the patient's representative requests a transfer or discharge and gives informed consent to the transfer or discharge against medical advice.

SEC. 2. Section 1317.3 of the Health and Safety Code is amended to read:

1317.3. (a) As a condition of licensure, each hospital shall adopt, in consultation with the medical staff, policies and transfer protocols consistent with this article and regulations adopted hereunder.

(b) As a condition of licensure, each hospital shall adopt a policy prohibiting discrimination in the provision of emergency services and care based on race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to the patient.

(c) As a condition of licensure, each hospital shall require that physicians who serve on an "on-call" basis to the hospital's emergency room cannot refuse to respond to a call on the basis of the patient's race, ethnicity, religion, national origin, citizenship, age, sex, preexisting medical condition, physical or mental handicap, insurance status, economic status, or ability to pay for medical services, except to the extent that a circumstance such as age, sex, preexisting medical condition, or physical or mental handicap is medically significant to the provision of appropriate medical care to

the patient. If a contract between a physician and hospital for the provision of emergency room coverage presently prevents the hospital from imposing those conditions, the conditions shall be included in the contract as soon as is legally permissible. Nothing in this section shall be construed as requiring that any physician serve on an "on-call" basis.

(d) As a condition of licensure, all hospitals shall inform all persons presented to an emergency room or their representatives if any are present and the person is unable to understand verbal or written communication, both orally and in writing, of the reasons for the transfer or refusal to provide emergency services and care and of the person's right to emergency services and care prior to transfer or discharge without regard to ability to pay. Nothing in this subdivision requires notification of the reasons for the transfer in advance of the transfer where a person is unaccompanied and the hospital has made a reasonable effort to locate a representative, and because of the person's physical or mental condition, notification is not possible. All hospitals shall prominently post a sign in their emergency rooms informing the public of their rights. Both the posted sign and written communication concerning the transfer or refusal to provide emergency services and care shall give the address of the department as the government agency to contact in the event the person wishes to complain about the hospital's conduct.

(e) If a hospital does not timely adopt the policies and protocols required in this article, the hospital, in addition to denial or revocation of any of its licenses, shall be subject to a fine not to exceed one thousand dollars ($1,000) each day after expiration of 60 days' written notice from the state department that the hospital's policies or protocols required by this article are inadequate unless the delay is excused by the state department upon a showing of good and sufficient cause by the hospital. The notice shall include a detailed statement of the state department's reasons for its determination and suggested changes to the hospital's protocols which would be acceptable to the state department.

(f) Each hospital's policies and protocols required in or under this article shall be submitted for approval to the state department by December 31, 1988.

SEC. 3. Section 1317.6 of the Health and Safety Code is amended to read:

1317.6. (a) Hospitals found by the state department to have committed or to be responsible for a violation of this article or the regulations adopted pursuant thereto shall be subject to a civil penalty by the state department in an amount not to exceed twenty-five thousand dollars ($25,000) for each hospital violation. In determining the amount of the fine for a hospital violation, the state department shall take into account all of the following:

(1) Whether the violation was knowing or unintentional.

(2) Whether the violation resulted or was reasonably likely to result in a medical hazard to the patient.

(3) The frequency or gravity of the violation.

(4) Other civil fines which have been imposed as a result of the violation under Section 1395 of Title 42 of the United States Code.

(b) Notwithstanding this section, the director shall refer any alleged violation by a hospital owned and operated by a health care service plan involving a plan member or enrollee to the Department of Corporations unless the director determines the complaint is without reasonable basis. The Department of Corporations shall have sole authority and responsibility to enforce this article with respect to violations involving hospitals owned and operated by health care service plans in their treatment of plan members or enrollees.

(c) Physicians and surgeons found by the board to have committed, or to be responsible for, a violation of this article or the regulations adopted pursuant thereto shall be subject to any and all penalties which the board may lawfully impose and may be subject to a civil penalty by the board in an amount not to exceed five thousand dollars ($5,000) for each violation. A civil penalty imposed under this subdivision shall not duplicate federal fines, and the board shall credit any federal fine against a civil penalty imposed under this subdivision.

(d) The board may impose fines when it finds any of the following:

(1) The violation was knowing or willful.

(2) The violation was reasonably likely to result in a medical hazard.

(3) There are repeated violations.

(e) It is the intent of the Legislature that the state department has primary responsibility for regulating the conduct of hospital emergency departments and that fines imposed under this section should not be duplicated by additional fines imposed by the federal government as a result of the conduct which constituted a violation of this section. To effectuate the Legislature's intent, the Governor shall inform the Secretary of the federal Department of Health and Human Services of the enactment of this section and request the federal department to credit any penalty assessed under this section against any subsequent civil monetary penalty assessed pursuant to Section 1395dd of Title 42 of the United States Code for the same violation.

(f) There shall be a cumulative maximum limit of thirty thousand dollars ($30,000) in fines assessed against hospitals under this article and under Section 1395dd of Title 42 of the United States Code for the same circumstances. To effectuate this cumulative maximum limit, the state department shall do both of the following:

(1) As to state fines assessed prior to the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1395dd of Title 42 of the United States Code (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), remit and return to

the hospital within 30 days after conclusion of the federal action, that portion of the state fine necessary to assure that the cumulative maximum limit is not exceeded.

(2) Immediately credit against state fines assessed after the final conclusion, including judicial review, if available, of an action against a hospital by the federal Department of Health and Human Services under Section 1395dd of Title 42 of the United States Code, which results in a fine against a hospital (for the same circumstances finally deemed to have been a violation of this article or the regulations adopted hereunder, because of the state department action authorized by this article), the amount of the federal fine, necessary to assure the cumulative maximum limit is not exceeded.

(g) Any hospital found by the state department pursuant to procedures established by the state department to have committed a violation of this article or the regulations adopted hereunder may have its emergency medical service permit revoked or suspended by the state department.

(h) Any administrative or medical personnel who knowingly and intentionally violates any provision of this article, may be charged by the local district attorney with a misdemeanor.

(i) Notification of each violation found by the state department of the provisions of this article or the regulations adopted hereunder shall be sent by the state department to the Joint Commission for the Accreditation of Hospitals, the state emergency medical services authority, and local emergency medical services agencies.

(j) Any person who suffers personal harm and any medical facility which suffers a financial loss as a result of a violation of this article or the regulations adopted hereunder may recover, in a civil action against the transferring or receiving hospital, damages, reasonable attorney's fees, and other appropriate relief. Transferring and receiving hospitals from which inappropriate transfers of persons are made or refused in violation of this article and the regulations adopted hereunder shall be liable for the reasonable charges of the receiving or transferring hospital for providing the services and care which should have been provided. Any person potentially harmed by a violation of this article or the regulations adopted hereunder, or the local district attorney or the Attorney General, may bring a civil action against the responsible hospital or administrative or medical personnel, to enjoin the violation, and if the injunction issues, the court shall award reasonable attorney's fees. The provisions of this subdivision are in addition to other civil remedies and do not limit the availability of the other remedies.

(k) The civil remedies established by this section do not apply to violations of any requirements established by any county or county agency.

SEC. 4. Section 1317.7 of the Health and Safety Code is amended to read:

1317.7. This article does not preempt any county or any other governmental agency acting within its authority from regulating

emergency care or patient transfers, including the imposition of more specific duties, consistent with the requirements of this article and its implementing regulations. Any inconsistent requirements imposed by the Medi-Cal program shall preempt this article with respect to Medi-Cal beneficiaries. To the extent hospitals and physicians enter into contractual relationships with county or other governmental agencies which impose more stringent transfer requirements, those contractual agreements shall control.

SEC. 5. Section 1317.9 of the Health and Safety Code is repealed.

SEC. 6. Section 1798.172 of the Health and Safety Code is amended to read:

1798.172. (a) The local EMS agency shall establish guidelines and standards for completion and operation of formal transfer agreements between hospitals with varying levels of care in the area of jurisdiction of the local EMS agency consistent with Sections 1317 to 1317.9a, inclusive, and Chapter 5 (commencing with Section 1798). Each local EMS agency shall solicit and consider public comment in drafting guidelines and standards. These guidelines shall include provision for suggested written agreements for the type of patient, initial patient care treatments, requirements of interhospital care, and associated logistics for transfer, evaluation, and monitoring of the patient.

(b) Notwithstanding subdivision (a), and in addition to Section 1317, a general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 shall not transfer a person for nonmedical reasons to another health facility unless that other facility receiving the person agrees in advance of the transfer to accept the transfer.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to alleviate the problems in patient transfers at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 889

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

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Pursuant to Section 13896.2 of the Water Code, the Department of Water Resources is hereby authorized to make grants from the California Safe Drinking Water Bond Fund in accordance with the California Safe Drinking Water Bond Law of 1986 (Chapter 10.7 (commencing with Section 13895) of Division 7 of the Water Code), to the following agencies for purposes of financing proposed projects and investigations to identify alternatives for system improvements therefor:

(1) Barton Flats Water System.
(2) Big Rock Community Services District.
(3) Bishop, City of.
(4) Contra Costa Water District (Northgate Assessment District).
(5) East Bay Regional Park District.
(6) Hilton Creek Community Services District.
(7) HRC Community Services District.
(8) Magnolia Unified School District (Magnolia School).
(9) Mendocino, City of.
(10) Merced, City of (N & P Streets).
(11) Merced County Service Area (Gurr Road).
(12) Morro Bay, City of.
(13) Nevada Irrigation District (Elizabeth George Improvement District).
(14) Nevada Irrigation District (Mountain Air Improvement District).
(15) Nevada Irrigation District (O'Leary Improvement District).
(16) Nevada Irrigation District (Pino Alto Improvement District).
(17) Nevada Irrigation District (Red Hill Improvement District).
(18) Orleans Community Services District.
(19) Placer County Water Agency (Applegate).
(20) Placer County Water Agency (Applegate-Clipper Gap).
(21) Placer County Water Agency (Barton Road).
(22) Placer County Water Agency (Bon Vue).
(23) Placer County Water Agency (Buckboard Road).
(24) Placer County Water Agency (Crockett Road).
(25) Placer County Water Agency (Delmar Avenue).
(26) Placer County Water Agency (Eden Valley).
(27) Placer County Water Agency (Highway 174).
(28) Placer County Water Agency (Hillside).
(29) Placer County Water Agency (Horseshoe Bar Road).
(30) Placer County Water Agency (Hoyer Lane).
(31) Placer County Water Agency (Indian Hill Lane).
(32) Placer County Water Agency (Indian Springs).
(33) Placer County Water Agency (King/Delmar).
(34) Placer County Water Agency (Meadow Gate).
(35) Placer County Water Agency (Midway Heights).
(36) Placer County Water Agency (Morgan Place).

(37) Placer County Water Agency (Orchard Avenue).
(38) Placer County Water Agency (Penryn Road).
(39) Placer County Water Agency (Pinecrest).
(40) Placer County Water Agency (Ridge Road).
(41) Placer County Water Agency (Scenic Pines).
(42) Placer County Water Agency (Seavey Lane).
(43) Placer County Water Agency (Shady Glen).
(44) Placer County Water Agency (Taylor/Goulart Road).
(45) Placer County Water Agency (Taylor/Sisley).
(46) Placer County Water Agency (Uncle Joe's Lane).
(47) Placer County Water Agency (Val Verde Road).
(48) Placer County Water Agency (Vista Drive).
(49) Placer County Water Agency (Wells Avenue).
(50) Placer County Water Agency (White Oak).
(51) Placer County Water Agency (Zone 1-Bowman/Ophir).
(52) Riverside County Probation Department (Twin Pines Ranch).
(53) Ruth Lake Community Services District (Barlow Campground).
(54) San Joaquin County Service Area No. 43 (Clements).
(55) San Martin County Water District.
(56) San Mateo County Service Area No. 11 (Pescadero).
(57) Solano Irrigation District (Gibson Canyon/Serenity Hills Area).
(58) Solano Irrigation District (Green Valley).
(59) Tompson Lake Water System.
(60) Volta Community Services District.
(61) Western Municipal Water District (Eagle Valley Improvement District).
(62) Western Municipal Water District (El Sobrante Improvement District).
(63) Western Municipal Water District (Improvement District U-1).
(64) Westhaven Community Services District.
(65) Yolo County Flood Control and Water Conservation District (Indian Valley).
(66) Yosemite Alpine Community Services District.
(67) Yosemite Alpine Community Services District (Fish Camp).

SEC. 2. Pursuant to Section 13822 of the Water Code, the Department of Water Resources is hereby authorized to make a grant from the California Safe Drinking Water Bond Fund, in accordance with the California Safe Drinking Water Bond Law of 1984 (Chapter 10.2 (commencing with Section 13810) of Division 7 of the Water Code), to the following agency for purposes of financing a proposed project and investigation to identify alternatives for system improvements therefor.

(1) Phillipsville Community Services District.

SEC. 3. The Department of Water Resources shall determine eligibility for and the amount of any grant authorized in this act, in

accordance with the California Safe Drinking Water Bond Law of 1986 (Chapter 10.7 (commencing with Section 13895) of Division 7 of the Water Code) and may make those grants in accordance with the bond law.

SEC. 4. The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards, there are critical needs within the entities identified in this act, to immediately undertake certain improvements necessary to enable residents of those communities to have a dependable and potable water supply.

SEC. 5. The Legislature further finds and declares that the water systems of the entities identified in this act have critical deficiencies in the areas of treatment, storage, and distribution which pose a serious threat to the public health and welfare of all consumers within those communities and that each entity is only barely meeting the demand for water within the community.

SEC. 6. Notwithstanding any other provision of law, the Department of Water Resources may, at its discretion, prepare the information on each grant application required to be submitted to the Legislature under Section 13896.2 of the Water Code in the form of one annual report to the Legislature. The report shall be filed on or before January 31 of each year for grant commitments made or grant contracts entered into by the department during the previous calendar year. The report shall be filed with the Legislature, if it is in session or, if it is not in session, with the Joint Rules Committee.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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

CHAPTER 890

An act to add Section 4515 to the Civil Code, relating to family law.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 4515 is added to the Civil Code, to read:

4515. (a) In an action for dissolution of marriage under this part, the court, upon noticed motion, may sever and grant an early and separate trial on the issue of the dissolution of the status of the marriage apart from other issues.

(b) The court may impose upon a party any of the following

conditions on granting a severance of the issue of the dissolution of the status of the marriage, and in the event of that party's death, an order of any of the following conditions shall continue to be binding upon his or her estate:

(1) The party shall indemnify and hold the other party harmless from any and all taxes, reassessments, interest and penalties payable by the other party in the event the dissolution of the marriage prior to the division of the parties' community property results in a taxable event to either of the parties by reason of the ultimate division of their community property, which taxes would not have been payable if the parties were still married at the time the division was made.

(2) Until judgment has been entered on all remaining issues and has become final, the party shall maintain all existing health and medical insurance coverage for the other party and the minor children as named dependents, so long as he or she is legally able to do so. At the time the party is no longer legally eligible to maintain the other party as a named dependent under the existing health and medical policies, the party or his or her estate shall, at his or her sole expense, purchase and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage. If comparable insurance coverage is not obtained, the party or his or her estate shall be responsible for any and all health and medical expenses incurred by the other party which would have been covered by the insurance coverage, and shall indemnify and hold the other party harmless from any adverse consequences resulting from the lack of insurance.

(3) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any and all adverse consequences resulting to the other party in the event the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

(4) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any and all adverse consequences resulting to the other party in the event that the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse of the party.

(5) Until judgment has been entered on all remaining issues and has become final, the party shall indemnify and hold the other party harmless from any and all adverse consequences resulting to the other party in the event bifurcation results in the loss of the other party's rights to pension benefits, elections, or survivors' benefits under the party's pension or retirement plan to the extent that the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(6) The party shall cause his or her retirement or pension plan to be joined as a party to the action for dissolution, and if the party has a private pension plan covered by ERISA, then he or she shall cause

a qualified domestic relations order, as defined in Section 1056 of Title 29 of the United States Code, to be served upon the party's pension plan.

(7) The party shall indemnify and hold the other party harmless from any and all adverse consequences in the event bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse of the party.

(8) Any other condition which the court determines is just and equitable.

(c) A judgment granting a dissolution of the status of the marriage shall expressly reserve jurisdiction for later determination of all other pending issues.

CHAPTER 891

An act to add Chapter 6 (commencing with Section 38045) to Division 25 of the Health and Safety Code, relating to state contracts.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Chapter 6 (commencing with Section 38045) is added to Division 25 of the Health and Safety Code, to read:

CHAPTER 6. CONTRACT REFORM PROCESS

38045. (a) It is the intent of the Legislature to ensure that nonprofit organizations that enter into human services contracts with the state are provided with the appropriate information to enable them to faithfully execute the contracts and meet the audit standards that are established by the various departments of state government which contract for services through local assistance funding.

(b) The Auditor General shall review the contract-reform, appeals, and audit processes set forth in this division and Division 25.1 (commencing with Section 38050), with respect to their application to direct service contracts with nonprofit organizations, and shall report thereon to the Legislature on or before July 1, 1989. The report shall contain recommendations to achieve a reduction in the number of audit exceptions and appeals so as to improve the efficient administration of direct service contracts with nonprofit organizations.

CHAPTER 892

An act to amend Section 11488.1 of the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 11488.1 of the Health and Safety Code is amended to read:

11488.1. Property seized pursuant to Section 11488 may, where appropriate, be held for evidence. The state or any city, county, or city and county may initiate forfeiture proceedings with respect to any property seized pursuant to Section 11488 by a peace officer employed by its law enforcement agency. The Attorney General or the district attorney for the jurisdiction involved shall file and maintain the proceedings. In the County of Los Angeles, in cases where the value of the seized property is twenty-five thousand dollars ($25,000) or less, and the Attorney General, or the district attorney, or both, have declined to institute forfeiture proceedings, the city attorney for the jurisdiction involved, with the consent of the Attorney General, or the district attorney, or both, may institute and maintain the proceedings.

CHAPTER 893

An act to amend Section 45273 of the Education Code, relating to education.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 45273 of the Education Code is amended to read:

45273. Examinations shall be administered objectively, and shall consist of test parts that relate to job performance.

For classes of positions deemed by the commission or by the authority responsible for the administration of classified employee examinations to require an oral examination, the oral examination board shall include at least two members. Where a structured objective examination is to be administered to the entire field of candidates in an entrance level classification, a single member oral examination board may be utilized. A "structured objective examination" means, for this purpose, an examination for which the

examiner exercises no discretion in the selection of the questions or in the evaluation of the answers.

Unless specifically directed to evaluate candidates' technical knowledge and skills, the oral examination board shall confine itself to evaluating general fitness for employment in the class. When the oral examination board is directed to evaluate technical knowledge and skills, at least two members of the board shall be technically qualified in the specified occupational area. Members of the governing board or personnel commission shall not serve on an oral examination board. A district employee may serve on an oral examination board if he or she is not at the first or second level of supervision over a vacant position in the class for which the examination is held.

The personnel commission shall provide for the proceedings of all oral examinations to be electronically recorded. In no case will an oral examination board be provided with confidential references on employees of the district who are competing in promotional examinations. Scores achieved by the candidate on other parts of the examination shall not be made available to the oral examination board.

CHAPTER 894

An act to amend Section 6103.4 of the Government Code, to amend Sections 113, 4025, and 25198 of, to amend and repeal Section 25198.2 of, to add Sections 25298.5 and 25358.4 to, to add Chapter 7.5 (commencing with Section 1010) to Part 2 of Division 1 of, and to repeal Sections 25198.3, 25198.4, 25198.5, 25198.6, and 25198.7 of, the Health and Safety Code, to amend Section 13176 of the Water Code, and to amend Section 2 of Chapter 1520 of the Statutes of 1985, relating to laboratories.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. The Legislature finds and declares the following:

The accreditation or licensing of environmental laboratories is a public service to protect the public health and the environment. It is presently carried out under two separate sections of the Health and Safety Code for laboratories performing analyses of drinking water and hazardous wastes and also has been authorized under the Water Code for laboratories performing analyses of waste water. Consolidation of these statutes under this act will prevent the duplication of state services and facilitate a fair and reasonable allocation of the cost of this service.

This act shall be known and may be cited as the Environmental

Laboratory Improvement Act of 1988.

SEC 2. Section 6103.4 of the Government Code is amended to read:

6103.4. Section 6103 does not apply to any fee or charge for official services required by Section 1017 of the Health and Safety Code, or Part 5 (commencing with Section 4999) of Division 2, or subdivision (d) of Section 13260, or Section 13609, of the Water Code.

SEC. 3. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 436.53, 527, 1017, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 4083, 11887, 23013, 25694, 25696, 25697, 25816, 25817, 26506.2, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. The adjustment of fees and publication of the fee list pursuant to subdivision (d) of Section 1017 shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until January 1, 1992.

SEC. 3.5. Section 113 of the Health and Safety Code, as amended by Section 1 of Assembly Bill 4114, is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 403, 436.53, 527, 1017, 1616, 1676, 1677, 2202, 2805, 4042, 4042.2, 4042.3, 4083, 11887, 23013, 25694, 25696, 25697, 25816, 25817, 26506.2, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or

registration governed by this section. The adjustment of fees and publication of the fee list pursuant to subdivision (d) of Section 1017 shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until January 1, 1992.

SEC. 4. Chapter 7.5 (commencing with Section 1010) is added to Part 2 of Division 1 of the Health and Safety Code, to read:

CHAPTER 7.5. ENVIRONMENTAL LABORATORIES

1010. (a) The state department may accredit laboratories which perform for regulatory purposes analyses of drinking water, waste water, hazardous wastes, and contaminated soils or sediments, or any combination of these, through the issuance of certificates of accreditation. Laboratory activities regulated under Section 12591 of the Food and Agricultural Code shall be exempt from accreditation.

(b) In any arrangement between laboratories, which involves the transfer of samples or portions of samples, the analyzing laboratory shall be identified in all sample reports and shall be the laboratory for purposes of accreditation.

(c) For the purposes of this chapter:

(1) "Certificate" means a certificate of accreditation issued under this chapter.

(2) "Laboratory" means any facility or vehicle which is owned by a person or persons, or by a public or private entity, and which is equipped and operated to carry out environmental analyses, as determined by the department.

1011. The department shall adopt regulations governing the administration and enforcement of this chapter. Until regulations are adopted under this chapter, regulations adopted under Sections 4025 and 25198 shall remain in effect. Regulations adopted by the department under this chapter shall specify conditions for recognizing on the basis of reciprocity the accreditation of laboratories located outside of the State of California for activities regulated under this chapter by another state or by an agency of the United States government. Accreditation by another jurisdiction may be recognized for purposes of this chapter with regard to one or several program activities, including, but not limited to, onsite inspections, the analysis of performance evaluation samples, or the evaluation of personnel qualifications.

1012. The department by regulation may establish minimum standards for the following:

(a) Quality assurance programs in effect at the laboratory.

(b) Laboratory facilities.

(c) Methods.

(d) Equipment.

(e) Qualifications of laboratory directors and other laboratory personnel.

(f) Any other area concerning the operation or maintenance of a

laboratory not inconsistent with this chapter as may be necessary to carry out the provisions of this chapter.

1013. Any laboratory desiring accreditation under this chapter shall file with the department a verified application on forms prescribed by the department containing all of the following:

(a) The names of the applicant and the laboratory.

(b) The location of the laboratory.

(c) A list of fields of testing for which the laboratory is seeking accreditation, selected from the activities listed in subdivision (a) of Section 1017.

(d) Evidence satisfactory to the department that the applicant has the ability to comply with this chapter and the rules and regulations adopted under this chapter.

(e) Any other information as may be required by the department for administration or enforcement of this chapter or rules and regulations adopted under this chapter.

1014. (a) Each certificate issued pursuant to this chapter shall be issued to the owner of the laboratory and shall expire 24 months from the date of issuance. Application for renewal shall be filed with the department within a time period specified by regulation. Failure to make timely application for renewal shall result in expiration of the certificate.

(b) A certificate shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(1) The owner sells or otherwise transfers the ownership of the laboratory, except that accreditation shall remain in force 90 days, if the department receives written assurance and appropriate documentation within 15 days after the change has occurred that one or more of the conditions in subdivision (c) are met. The department shall accept or reject the assurance in writing within 30 days after it has been received.

(2) There is a change in the location of the laboratory (except a mobile laboratory) or structural alteration which may affect adversely the quality of analysis in the fields of testing for which the laboratory is accredited or is seeking accreditation, without prior written approval by the department.

(3) The certificateholder surrenders the certificate to the department.

(c) Upon change of ownership of a laboratory, the department may extend accreditation to the expiration date of the original certificate upon written assurance by the new owner that the operation of the laboratory will continue so as not to affect the conditions regulated by this chapter. A similar extension may be granted upon a change of director or other person in responsible charge, if the new person in charge was the director or person in charge of a laboratory accredited under this chapter immediately preceding the appointment, or was promoted from a position within the laboratory or demonstrates qualifications satisfactory to the department. Regulations shall specify procedures by which

operation of a laboratory may continue for a period not to exceed 90 days during a change in directorship or while deficiencies are being corrected.

1015. (a) Upon the filing of an application for accreditation and after a finding by the department that the applicant is in full compliance with the provisions of this chapter and rules and regulations adopted under this chapter, the department shall issue to the applicant a certificate in the fields of testing identified in Section 1017.

(b) The department shall deny accreditation, or revoke a certificate of accreditation if it finds one of the following:

(1) The laboratory fails to report acceptable results in the analysis of performance evaluation samples.

(2) The laboratory fails to pass an onsite inspection.

(3) The laboratory is not in compliance with any other provision of this chapter or regulations adopted under this chapter.

(c) Provided that the applicant complies with all other provisions of this chapter, accreditation may be restricted to the fields of testing of Section 1017 or subgroups thereof as defined by regulation for which acceptable results have been produced and onsite inspection was passed.

1016 Upon denial of any application for accreditation, or revocation of accreditation, the department shall immediately notify the applicant by certified mail, return receipt requested, of the denial and the reasons for the denial. Within 20 days of receipt, the applicant may present the department with a written petition for a hearing. Upon receipt in proper form by the department, the petition shall be set for hearing. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and the department has all the powers granted therein.

1017. (a) At the time of application and annually thereafter, any private entity or public entity shall pay a nonrefundable annual accreditation fee. The fee shall consist of a basic fee of eight hundred seventy-nine dollars ($879) and an additional fee of three hundred ninety-six dollars ($396) for accreditation in each of the following fields of testing for which accreditation is sought: (1) microbiology of drinking water and waste water, (2) inorganic chemistry and physical properties of drinking water excluding toxic chemical elements, (3) analysis of toxic chemical elements in drinking water, (4) organic chemistry of drinking water (measurement by gc/ms combination), (5) organic chemistry of drinking water (excluding measurements by gc/ms combination), (6) radiochemistry, (7) shellfish sanitation, (8) aquatic toxicity bioassays, (9) physical properties testing of hazardous waste, (10) inorganic chemistry and toxic chemical elements of hazardous waste, (11) extraction tests of hazardous waste, (12) organic chemistry of hazardous waste (measurement by gc/ms combination), (13) organic chemistry of hazardous waste (excluding measurements by gc/ms combination),

(14) bulk asbestos analysis, (15) substances regulated under the California Safe Drinking Water and Toxic Enforcement Act and not included in other listed groups, (16) waste water inorganic chemistry, nutrients, and demand, (17) toxic chemical elements in waste water, (18) organic chemistry of waste water (measurements by gc/ms combination), (19) organic chemistry of waste water (excluding measurements by gc/ms combination), (20) operation of a mobile laboratory in any one of the above fields of testing in addition to activity in the same field of testing in an accredited stationary laboratory under the same owner.

(b) In addition to the payment of accreditation fees, laboratories located outside the State of California shall reimburse the department for travel and per diem necessary to perform onsite inspections.

(c) If reciprocity is established by regulation as described in Section 1011, the regulations may provide for the waiver of accreditation fees for program activities considered equivalent.

(d) Fees collected under this section shall be adjusted annually as specified in Section 113. In addition, the department shall increase or decrease the fees collected under this section, as necessary, in order to support the full program costs of this chapter.

(e) State and local government-owned laboratories in California established under Section 1000 or performing work only in a reference capacity as a reference laboratory are exempt from the payment of the fee prescribed under subdivision (a).

For the purpose of this section, a reference laboratory is a laboratory owned and operated by a governmental regulatory agency for the principal purpose of analyzing samples referred by other laboratories for confirmatory analysis. Reference laboratories carry out quality assurance functions relative to other laboratories and may carry out unusual, highly specialized, and difficult analyses not generally available through commercial laboratories, and a limited amount of routine analyses, for regulatory purposes only, and without assessing per-sample fees for the services.

1018. In order to carry out the purpose of this chapter, any duly authorized representative of the department may do the following:

(a) Enter and inspect a laboratory which is accredited pursuant to this chapter or which has applied for accreditation.

(b) Inspect and photograph any portion of the laboratory, equipment, any activity, or any samples taken, copy and photograph any records, reports, test results, or other information related solely to accreditation under this chapter or regulations promulgated pursuant to this chapter.

(c) It shall be a misdemeanor for any person to prevent, interfere with, or attempt to impede in any way, any duly authorized representative of the department from undertaking the activities authorized by this section.

1019. The department shall require any laboratory which is accredited or has applied for accreditation, or for renewal of

accreditation under this article, to analyze performance evaluation samples provided by the department. The samples shall be tested by the laboratory according to methods specifically approved for this purpose by the United States government or the department, or alternate methods of demonstrated adequacy or equivalence, as determined by the department. Results of the testing shall be submitted to the department on forms provided by the department on or before the date specified by the department, and shall be used in determining the competency of the laboratory. The department shall not be charged a fee for the analysis of the performance evaluation samples.

1020. Whenever the department determines that any person has violated or is violating this chapter or any certificate, regulation, or standard issued or adopted pursuant to this chapter, the director may issue an order directing compliance forthwith or directing compliance in accordance with a time schedule set by the department.

1021. If the department determines that a laboratory is in violation of this chapter or any regulation or order issued or adopted thereunder, the department may issue a citation to the owner of the laboratory.

(a) The citation shall be served personally or by registered mail

(b) Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, order, or regulation alleged to have been violated.

(c) The citation shall fix the earliest feasible time for elimination or correction of the condition constituting the violation.

(d) Citations issued pursuant to this section shall specify a civil penalty for each violation, not to exceed one thousand dollars ($1,000), for each day that the violation occurred.

(e) If the owner fails to correct a violation within the time specified in the citation, the department may assess a civil penalty as follows:

(1) For failure to comply with any citation issued for a violation of this chapter or regulation, an amount not to exceed two hundred fifty dollars ($250) for each day that the violation continues beyond the date specified for correction in the citation.

(2) For failure to comply with any citation issued for failure of any department-issued order, an amount not to exceed two hundred dollars ($200) per day for each day the violation continues beyond the date specified for correction in the citation.

1022. (a) Any person who operates an environmental laboratory which performs work, for which accreditation under this chapter is required, without holding an unrevoked certificate to do so, may be enjoined from so doing by any court of competent jurisdiction at the suit of the department.

(b) When the department determines that any person has engaged in, or is engaged in, any act or practice which constitutes a

violation of this chapter, or any regulation or order issued or adopted thereunder, the department may bring an action in the superior court for an order enjoining these practices or for an order directing compliance and affording any further relief which may be required to ensure compliance with this chapter.

1023. (a) Any person who knowingly makes any false statement or representation in any application, record, or other document submitted, maintained, or used for purposes of compliance with this chapter, may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation or, for continuing violations, for each day that violation continues.

(b) Any person who operates an environmental laboratory for purposes requiring accreditation under this chapter without a certificate issued by the department pursuant to this chapter may be liable, as determined by the court, for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation, or, for continuing violations, for each day that violation continues.

(c) A laboratory that advertises or holds itself out to the public or its clients as having been issued a certificate of accreditation for any of the fields of testing referred to in Section 1017 without having a valid and current certificate in each field of testing identified by the advertisement or other representation may be liable, as determined by the court, for a civil penalty not to exceed one thousand dollars ($1,000) or, for continuing violations, for each day that violation continues.

(d) Each civil penalty imposed for any separate violation pursuant to this section shall be separate and in addition to any other civil penalty imposed pursuant to this section or any other provision of law.

1024. (a) Any person who knowingly does any of the following acts may, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail not to exceed one year, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, record, report, or other document submitted, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record required to be maintained pursuant to this chapter which has been altered or concealed.

(3) Destroys, alters, or conceals any record required to be maintained pursuant to this chapter.

(4) Withholds information regarding an imminent and substantial danger to the public health or safety when the information has been requested by the department in writing and is required to carry out the department's responsibilities pursuant to this chapter.

(b) If the conviction under subdivision (a) is for a violation committed after a first conviction of the person under this section,

the person may be punished by imprisonment in the state prison for up to 24 months, or in the county jail for not to exceed one year, or for a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) per day of violation, or by both the fine and imprisonment.

1025. The remedies provided by this chapter are cumulative and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts.

1026. The department may suspend or revoke any certificate issued under the provisions of this chapter for any of the following reasons:

(a) Violation by the owner of the laboratory of any of the provisions of this chapter or any rule or regulation adopted under this chapter.

(b) Aiding, abetting, or permitting the violation of any provision of this chapter or the rules or regulations adopted under this chapter.

(c) Proof that the certificateholder or owner has made false statements in any material regard on the application for accreditation.

(d) The conviction of an owner of the laboratory of any crime which is substantially related to the qualifications or duties of the owner of the laboratory which is related to the functions of the laboratory. For purposes of this subdivision, a "conviction" means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action to revoke or suspend the certificate may be taken when the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Section 1203.4 of the Penal Code permitting withdrawal of a plea of guilty and entry of a plea of not guilty, or setting aside a verdict of guilty, or dismissing the accusation, information, or indictment. The department shall take into account all judicial decisions on rehabilitation furnished by the owner of the laboratory.

1027. Proceedings for the suspension or revocation of a certificate under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all powers granted therein.

1028. The department may temporarily suspend a certificate prior to any hearing, when it has determined that this action is necessary to protect the public. The department shall notify the owner of the temporary suspension and the effective date thereof and at the same time shall serve the owner with an accusation. Upon receipt of a notice of defense by the owner, the matter shall within 15 days be set for hearing. The hearing shall be held as soon as possible but no later than 30 days after receipt of the notice. The

temporary suspension shall remain in effect until the time that the hearing is completed and the department has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the department fails to make a final determination on the merits within 60 days after the original hearing has been completed.

1029. Fees and civil penalties collected under this chapter shall be deposited in the Environmental Laboratory Improvement Fund, which is hereby created. Moneys in the fund shall be available for expenditure by the department for the purposes of this chapter, upon appropriation by the Legislature.

SEC. 5. Section 4025 of the Health and Safety Code is amended to read:

4025. (a) No laboratory, other than a laboratory operated by the department, shall perform tests required pursuant to this chapter for any public water system without first obtaining a certificate of accreditation issued by the department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1, except that laboratories previously issued a certificate under this section shall be deemed accredited until accreditation under Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 has been either granted or denied, but not beyond the expiration date shown on the certificate previously issued under this section.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the department requires accreditation pursuant to this section, unless the laboratory holds a valid certificate of accreditation.

SEC. 6. Section 25198 of the Health and Safety Code is amended to read:

25198. (a) The analysis of any material required by this chapter shall be performed by a laboratory accredited by the department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1, except that laboratories previously issued a certificate under this section shall be deemed accredited until the time that accreditation under Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 has been either granted or denied, but not beyond the expiration date shown on the certificate previously issued under this section.

(b) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the department requires accreditation pursuant to this chapter, unless the laboratory holds a valid certificate of accreditation.

SEC. 6.5. Section 25198.2 of the Health and Safety Code is amended to read:

25198.2. (a) The department shall adopt regulations governing the criteria for certification, the certification process, and the procedures to be used by hazardous waste laboratories to analyze and identify waste samples.

(b) The regulations shall include minimum standards for the

following:

(1) Types of tests to be performed.

(2) Quality assurance programs.

(3) Equipment.

(4) Methods.

(5) Personnel qualifications.

(6) Any additional requirements, not inconsistent with this chapter, as may be necessary to carry out the provisions of this chapter.

(c) Whenever feasible, the tests and laboratory procedures adopted by the department pursuant to subdivision (b) shall either be tests and procedures recognized and endorsed by professional, standard-setting or regulatory organizations, or shall be specific tests and laboratory procedures developed by the department

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 7. Section 25198.3 of the Health and Safety Code is repealed.

SEC. 8. Section 25198.4 of the Health and Safety Code is repealed.

SEC. 9. Section 25198.5 of the Health and Safety Code is repealed.

SEC. 10. Section 25198.6 of the Health and Safety Code is repealed.

SEC. 11. Section 25198.7 of the Health and Safety Code is repealed.

SEC. 12. Section 25298.5 is added to the Health and Safety Code, to read:

25298.5. The analysis of any material which is required to demonstrate compliance with this chapter shall be performed by a laboratory accredited by the department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1.

SEC. 13. Section 25358.4 is added to the Health and Safety Code, to read:

25358.4. The analysis of any material which is required to demonstrate compliance with this chapter shall be performed by a laboratory accredited by the department pursuant to Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1.

SEC. 14. Section 13176 of the Water Code is amended to read:

13176. (a) The analysis of any material required by this division shall be performed by a laboratory registered by the State Department of Health Services under the provisions of Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 of the Health and Safety Code, except that the terms "accreditation" and "certificate of accreditation" in Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 of the Health and Safety Code, shall mean "registration" and "certificate of registration" respectively, and except that paragraphs (1) and (2) of subdivision (b) of Section 1015 of the Health and Safety Code shall not apply. This subdivision shall remain operative until January 1, 1991, or one year after regulations pursuant to Section 1010 have taken effect,

whichever occurs later, after which time subdivision (b) of this section shall apply.

(b) The analysis of any material required by this division shall be performed by a laboratory accredited by the State Department of Health Services under Chapter 7.5 (commencing with Section 1010) of Part 2 of Division 1 of the Health and Safety Code.

(c) No person or public entity of the state shall contract with a laboratory for environmental analyses for which the department requires registration or accreditation pursuant to this chapter, unless the laboratory holds a valid certificate of registration or accreditation

SEC. 15. Section 2 of Chapter 1520 of the Statutes of 1985 is amended to read.

Sec. 2. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the General Fund to the State Water Resources Control Board for the program established in Section 13176 of the Water Code for the 1985–86 fiscal year.

The State Water Resources Control Board shall not be required to reimburse the General Fund for the appropriation made pursuant to this section, and the State Department of Health Services shall, not later than January 1, 1992, reimburse the General Fund for the amount appropriated by this section, from moneys deposited in the Environmental Laboratory Improvement Fund pursuant to Section 1029 of the Health and Safety Code.

SEC. 16. Section 3.5 of this bill incorporates amendments to Section 113 of the Health and Safety Code proposed by both this bill and AB 4114. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 113 of the Health and Safety Code, and (3) this bill is enacted after AB 4114, in which case Section 113 of the Health and Safety Code, as amended by AB 4114, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operatave, and Section 3 of this bill shall not become operative.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because: (1) the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction, or (2) because the local agency has the authority to levy service charges, fees, or assessments to pay for the program or level of service mandated by this act.

CHAPTER 895

An act to amend Section 26592 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 26592 of the Health and Safety Code is amended to read:

26592. (a) The department shall adopt and enforce the regulations it determines are reasonably necessary to ensure that all bottled water, vended water, water from water haulers, water from retail water treatment plants, and water from private water sources which is sold or otherwise distributed in this state is pure, wholesome, potable, and contains no inorganic chemicals or organic chemicals, including pesticides and plasticizers in concentrations which may have an adverse effect on public health and safety. The regulations shall include, but not be limited to, all of the following:

(1) Minimum standards for the sanitary production and distribution of bottled, vended, and hauled water, and water from retail water treatment plants and private water sources within this state. The standards shall include, but not be limited to, all of the following:

(A) Standards for the sanitary production, packaging, and distribution of bottled water shall not be less stringent than those standards prescribed by Part 110 and Part 129 of Title 21 of the Code of Federal Regulations.

(B) Standards to ensure that, prior to bottling, bottled water shall be subject to effective germicidal treatment by ozone, ultraviolet, or an equivalent disinfection process approved by the state department. The standards developed pursuant to this category for bottled water which contains carbon dioxide shall prescribe that sufficient compliance includes meeting the microbiological requirements described in Section 103.35 of Title 21 of the Code of Federal Regulations.

(C) Standards to ensure that dispensers for bottled water, which are furnished by the water bottler or distributor shall be delivered to the consumer's premises in a clean, sanitary condition, protected from dust or other contamination.

(D) Standards to ensure that ollas or other water-holding dispensers, both refrigerated and nonrefrigerated, shall be examined for cleanliness each time the dispenser is serviced by the representative of the distributor or bottler. When necessary, these dispensers shall be sanitized in place or returned to the bottler or distributor for cleaning or sanitizing before reuse according to the

methods described in Part 129 of Title 21 of the Code of Federal Regulations.

(E) Standards for sanitary transfer of water from any source to storage or vehicle tanks, and from storage or vehicle tanks to customer owned or used storage tanks, vehicles, or other containers, or to water-vending machines, retail water treatment plants, or to water bottling plants.

(F) Standards for water quality and for sanitation of vehicle tanks, storage tanks, and distribution systems used by water haulers.

(G) Standards for sanitation and processing of water by retail water treatment plants.

(H) Standards for protection and sanitation of private water sources.

(2) Quality standards for bottled water, mineral water, vended water, water distributed by water haulers, water from retail water treatment plants, and water from private water sources. The quality standards of bottled water, including mineral water, vended water, water distributed directly to consumers by water haulers, water from retail water treatment plants, and water distributed directly to consumers from private water sources shall not be less stringent than those standards prescribed by Section 103.35 of Title 21 of the Code of Federal Regulations, except that mineral waters shall exceed 500 milligrams per liter of total dissolved solids. The quality standards shall include all drinking water maximum contaminant levels and may include any additional standards that the department determines are reasonably necessary to protect public health and safety. In addition, bottled water shall not exceed 10 parts per billion of total trihalomethanes or five parts per billion of lead unless the department establishes a lower level by regulation. Notwithstanding any other provision of law, the quality standards shall ensure that bottled water, vended water, water from retail water treatment plants, water distributed by water haulers, and water from private water sources contain no inorganic or organic chemicals, including pesticides and plasticizers, in concentrations which may have an adverse effect on public health and safety.

Mineral water producers which bottle 5,000 gallons, or less, per week shall have until February 1, 1990, to comply with the quality standards for bottled water pursuant to this paragraph. Mineral water producers may present to the State Department of Health Services data on consumption of mineral water and the health effects of inorganic elements which may be present as listed in the bottled water quality standards of Part 103.35 of Title 21 of the Code of Federal Regulations.

(3) Polycarbonate resins manufactured after January 1, 1988, and intended for use in fabricating containers for water products defined in this article shall not contain in excess of three parts per million residual methylene chloride or in excess of 200 parts per million residual monochlorobenzene unless the department establishes a lower level by regulation. For the purpose of monitoring compliance

with this section, the concentration of methylene choride and monochlorobenzene shall not exceed one part per billion in water. "Polycarbonate resins" mean the substances defined by Section 177.1580 of Title 21 of the Code of Federal Regulations except as modified by this section.

(4) Minimum standards of design, construction, and sanitation for any water-vending machine. Those water-vending machines, other than coin-operated self-service devices, from which any operator or customer dispenses unit servings in bulk may be exempted by the department from the requirements of subparagraphs (G), (M), and (O). The minimum standard shall include, but not be limited to, all of the following:

(A) Provide that water-vending machines shall be in compliance with the construction and performance standards established by the department or by an independent authority approved by the department.

(B) Provide that all water-vending machines shall be designed and constructed to permit easy cleaning and maintenance of all exterior and interior surfaces.

(C) Provide that water-vending machines shall have all parts and surfaces which come into contact with the water constructed of approved, corrosive-resistant and nonabsorbent material capable of withstanding repeated cleaning and sanitizing treatment.

(D) Provide that water-vending machines shall have a recessed or guarded corrosion-resistant dispensing spout.

(E) Provide that water-vending machines be designed so all treatment of the vended water by distillation, ion exchange, filtration, ultraviolet light, reverse osmosis, mineral addition, or any other acceptable process is done in an effective manner.

(F) Provide that water-vending machines shall have an effective system of handling drip, spillage, and overflow of water.

(G) Provide that water-vending machines shall have a backflow prevention device approved by the department for all connections with the water supply

(H) Provide for disinfecting vended water by ultraviolet light or other method approved by the department prior to delivery into the customer's container.

(I) Provide that water-vending machines shall be equipped with monitoring devices designed to shut down operation of the machine when the disinfection unit fails to function.

(J) Provide that water-vending machines shall be equipped with a self-closing, tight-fitting door on the vending compartment.

(K) Provide that water-vending machines shall comply with the American Water Works Association (AWWA) specifications for granular activated carbon if used in the treatment of potable water (AWWA B604-74).

(L) Provide that water-vending machines shall be maintained in a clean and sanitary condition, free from dirt and vermin.

(M) Provide that water-vending machines shall be connected to

a state approved and regulated public water supply.

(N) Provide that water-vending machines shall be located in an area that can be maintained in a clean condition and in a manner that avoids insect and rodent harborage.

(O) Provide that the water-vending machine shall be equipped with monitoring devices designed to shut down the labeled purified water delivery system if treatment of water by the machine does not result in a total dissolved solids content of less than 10 milligrams per liter in the purified water.

(5) Standards for labeling and advertising of bottled water, vended water, water distributed by a water hauler, water from a retail water treatment plant, and water from private water sources.

(6) Standards for processing bottled water through a line or lines used for any other food product.

(b) The department, upon the request of a local health officer, may authorize the local health officer to implement and enforce those provisons of this chapter which relate to water-vending machines, and retail water treatment plants under the terms and conditions specified by the department.

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

In order to provide for the extension of time for mineral water producers to comply with quality standards for bottled water at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 896

An act to add Section 484.1 to the Penal Code, relating to crime.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 484.1 is added to the Penal Code, to read:

484.1. (a) Any person who knowingly gives false information or provides false verification as to the person's true identity or as to the person's ownership interest in property or the person's authority to sell property in order to receive money or other valuable consideration from a pawnbroker or secondhand dealer and who receives money or other valuable consideration from the pawnbroker or secondhand dealer is guilty of theft.

(b) Upon conviction of the offense described in subdivision (a), the court may require, in addition to any sentence or fine imposed, that the defendant make restitution to the pawnbroker or

secondhand dealer in an amount not exceeding the actual losses sustained pursuant to the provisions of subdivision (c) of Section 13967 of the Government Code, if the defendant is denied probation, or Section 1203.04 of the Penal Code, if the defendant is granted probation.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 897

An act to add Section 11320.61 to the Welfare and Institutions Code, relating to aid to families with dependent children.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 11320.61 is added to the Welfare and Institutions Code, to read:

11320.61. Notwithstanding any other provision of law, any person who is not required to register under this article but who volunteers to participate in the program established by this article and fails to appear for a scheduled appointment prior to entering into the basic contract shall be deemed to not be subject to the requirements of this article and the conciliation efforts and sanction requirements established under Section 11320.6 shall not apply.

CHAPTER 898

An act to amend and repeal Section 11166.3 of the Penal Code, relating to minors.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 11166.3 of the Penal Code, as amended and renumbered by Chapter 531 of the Statutes of 1987, is amended to read:

11166.3. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services

department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Sections 859 and 1430. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

SEC. 2. Section 11166.3 of the Penal Code, as amended and renumbered by Chapter 1122 of the Statutes of 1986, is repealed.

CHAPTER 899

An act to amend Section 15200.7 of, and to add and repeal Section 15200.6 of, the Welfare and Institutions Code, relating to paternity, and making an appropriation therefor.

[Approved by Governor September 12, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 15200.6 is added to the Welfare and Institutions Code, to read:

15200.6. (a) (1) The department shall provide payments to each county at a rate of ninety dollars ($90) per child for each paternity established pursuant to Section 11475.1. In no event shall payments made under this section exceed the amount annually appropriated from the General Fund to the State Department of Social Services under subdivision (a) of Section 15200.7.

(2) For purposes of this section the definition of "paternity established" shall be given a meaning consistent with the meaning of that term when used by the department for statistical reporting.

(b) (1) The State Department of Social Services shall, prior to June 30, 1991, study and report to the Legislature on the effect of the incentive payment provided by this section upon paternity establishment efforts by the counties as well as review child support enforcement incentive provisions in existing law.

(2) The department shall also make recommendations as to needed revisions to, or extension of, the effective period of this section and make similar recommendations with regard to this section and other existing child support enforcement incentive sections as to whether there exist other or more effective means of providing counties with child support enforcement incentives.

(c) This section shall become inoperative on June 30, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 15200.7 of the Welfare and Institutions Code is amended to read:

15200.7. (a) In addition to funds appropriated pursuant to Sections 15200.1 and 15200.2, there is hereby annually appropriated from the General Fund to the State Department of Social Services, beginning in fiscal year 1984–85, and based on the increase in fiscal year 1983–84 Aid to Families with Dependent Children child support collections above Aid to Families with Dependent Children child support collections in fiscal year 1982–83, a sum equal to 50 percent of the state's share of those increased collections. The sum shall be computed after payment of the incentive pursuant to Sections 15200.1 and 15200.2 has been taken out of the state share. The sum to be appropriated shall be computed in a similar manner annually thereafter.

(b) The sum appropriated pursuant to subdivision (a) shall be allocated by the department to each county which increased its collections and shall be based on each county's percentage of the total increased collections in those counties.

(c) Subdivision (b) shall be inoperative from January 1, 1989, until June 30, 1991.

(d) For the period of January 1, 1989, to June 30, 1991, inclusive, funds appropriated pursuant to subdivision (a) shall be allocated by the department to each county pursuant to Section 15200.6.

CHAPTER 900

An act to amend Section 1785.13 of, to amend and repeal Section 4751 of, and to add Sections 4709 and 4752 to, the Civil Code, and to amend Section 683.160 of the Code of Civil Procedure, relating to civil law.

[Approved by Governor September 12, 1988. Filed with Secretary of State September 14, 1988.]

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

SECTION 1. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) Except as authorized under subdivision (b) no consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies which, from the date of adjudication, antedate the report by more than 14 years.

(2) Suits and judgments which, from the date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions where the person against whom the action was filed was adjudged the prevailing party.

(4) Paid tax liens which, from the date of payment, antedate the report by more than seven years.

(5) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(6) Records of arrest, indictment, information, misdemeanor complaint, or conviction of a crime which, from the date of disposition, release, or parole, antedate the report by more than seven years. Such items of information shall no longer be reported if at any time it is learned that in the case of a conviction a full pardon has been granted, or in the case of an arrest, indictment, information, or misdemeanor complaint a conviction did not result.

(7) Any other adverse information which antedates the report by more than seven years.

(b) The provisions of subdivision (a) are not applicable in the case of any consumer credit report to be used in the following transactions:

(1) A credit transaction involving, or which may reasonably be expected to involve, a principal amount of fifty thousand dollars ($50,000) or more.

(2) The underwriting of life insurance, involving or which may reasonably be expected to involve, an amount of one hundred thousand dollars ($100,000) or more.

(3) The employment of any individual at an annual salary which equals, or may reasonably be expected to equal, thirty thousand dollars ($30,000) or more.

(4) The rental of a dwelling unit which exceeds one thousand dollars ($1,000) per month.

SEC. 2. Section 4709 is added to the Civil Code, to read:

4709. A court may require a parent who alleges that his or her default in an order issued pursuant to this title is due to his or her unemployment to submit to the appropriate child support enforcement agency or any other entity designated by the court, including, but not limited to, the court itself, each two weeks, or at a frequency deemed appropriate by the court, a list of at least five different places he or she has applied for employment.

SEC. 3. Section 4751 of the Civil Code is amended to read:

4751. The Legislature finds and declares that in order to comply with Section 466(a)(7) of the Social Security Act, the State Department of Social Services shall implement procedures which provide that information regarding an amount of past due child support owed by an absent parent residing in this state shall be made available to any consumer reporting agency (as defined in Section 603(f)) of the Fair Credit Reporting Act (15 U.S.C. Sec. 1681 a(f)) upon the request of that agency; except that (a) if the amount of the past-due support involved in any case is less than one thousand dollars ($1,000), information regarding the amount shall be made available only at the option of the department, (b) any information with respect to an absent parent shall be made available under these procedures only after the parent has been notified of the proposed action and given a reasonable opportunity to contest the accuracy of the information, (and after full compliance with all procedural due process requirements contained in the laws of this state), and (c) a fee for furnishing the information, in an amount not exceeding the actual cost thereof, may be imposed on the requesting agency by the department.

This section shall remain in effect only until July 1, 1990, and as of that date is repealed.

SEC. 4. Section 4752 is added to the Civil Code, to read:

4752. (a) By July 1, 1990, the State Department of Social Services shall design and develop a statewide automated system for the reporting of court-ordered support obligations to credit reporting agencies.

The department shall design and develop standards for the system in conjunction with representatives of the California Family Support Council and the credit reporting industry. These standards shall be consistent with credit reporting industry standards and reporting format and with the department's statewide central automated system for support enforcement.

(b) The standards shall include, but not be limited to, all of the following:

(1) Court-ordered support obligations and delinquent payments, including amounts owed and by whom. The California district attorneys, on a monthly basis, shall update this information, and then submit it to the department which, in turn, shall consolidate and

transmit it to the credit reporting agencies.

(2) Prior to the initial reporting of a court-ordered support obligation or a delinquent payment, the district attorney shall attempt to notify the obligor parent of the proposed action and give 30 days to contest in writing the accuracy of the information, or to pay the arrearage, if any, in compliance with the due process requirements of the laws of this state. Neither the department, nor the district attorneys shall be liable for any consequences of the failure of a parent to contest the accuracy of the information within the time period.

(c) The department and the district attorneys shall be responsible for the accuracy of information provided pursuant to this section, and the information shall be based upon the data available at the time the information is provided. Each of these organizations and the credit reporting agencies shall follow reasonable procedures to ensure maximum possible accuracy of the information provided.

(d) Prior to July 1, 1990, each district attorney may implement systems for reporting all obligors to credit reporting agencies in accordance with the credit reporting agencies' standards.

SEC. 5. Section 683.160 of the Code of Civil Procedure is amended to read:

683.160. (a) The judgment creditor shall serve a notice of renewal of the judgment on the judgment debtor. Service shall be made personally or by first-class mail and proof of service shall be filed with the court clerk. The notice shall be in a form prescribed by the Judicial Council and shall inform the judgment debtor that the judgment debtor has 30 days within which to make a motion to vacate or modify the renewal.

(b) Until proof of service is filed pursuant to subdivision (a), no writ may be issued, nor may any enforcement proceedings be commenced to enforce the judgment, except to the extent that the judgment would be enforceable had it not been renewed.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 901

An act to amend Sections 19405 and 25962 of, and to add Sections 19133 and 25782 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 13, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 19133 is added to the Revenue and Taxation Code, to read:

19133. (a) (1) The executive officer or chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter disputes.

(2) The Franchise Tax Board itself, shall not participate in the settlement of these tax matters, except as provided in subdivision (c).

(b) Whenever a recommendation for settlement involves a reduction of tax in excess of five hundred dollars ($500) is made pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a statement with respect to that settlement by the executive officer or the chief counsel of the Franchise Tax Board, if so authorized by the executive officer. The statement shall include, but need not be limited to, all of the following information:

(1) The name or names of the parties.

(2) The total amount involved.

(3) The amount actually paid or refunded.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(c) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself.

(2) Any recommendation for settlement involving a combined reduction in tax, interest, additions to tax, or penalties in excess of five thousand dollars ($5,000) shall be approved only at a public meeting and shall require a disclosure of the legal and factual basis supporting a finding that the settlement is in the best interests of the state. Section 19282 shall not apply to any disclosures required to be made at this public meeting.

(3) Upon approval or disapproval of the recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel of the Franchise Tax Board for ordinary processing in accordance with the decision of the members of the Franchise Tax Board, itself.

(d) Except as provided in paragraph (2) of subdivision (c), a settlement made pursuant to this section constitutes confidential tax

information for the purpose of Article 2 (commencing with Section 19281) of Chapter 21.

(e) This section shall apply to tax liabilities relating to returns required to be filed on or after April 15, 1989.

SEC. 2. Section 19405 of the Revenue and Taxation Code is amended to read:

19405. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Personal Income Tax Law, of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Personal Income Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 19 (commencing with Section 18801) of this part; or Chapter 5 (commencing with Section 706.010) of Division 2 of, and Chapter 8 (commencing with Section 688.010) of Division 1 of, Title 9 of the Code of Civil Procedure, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any settlement under Section 19133, or offer of that settlement, or in connection with any closing agreement under Section 19132 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax,

shall be guilty of a felony and, upon conviction thereof, shall be fined not more than twenty thousand dollars ($20,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for

all purposes that the return, statement, or other document was actually signed by him or her.

SEC. 3. Section 25782 is added to the Revenue and Taxation Code, to read:

25782. (a) (1) The executive officer or chief counsel, if authorized by the executive officer, of the Franchise Tax Board may recommend to the Franchise Tax Board, itself, a settlement of any civil tax matter dispute.

(2) The members of the Franchise Tax Board shall not participate in the compromise of these tax matters, except as provided in subdivision (c).

(b) Whenever a recommendation for settlement involves a reduction of tax in excess of five hundred dollars ($500) is made pursuant to this section, there shall be placed on file in the office of the executive officer of the Franchise Tax Board a statement with respect to that settlement by the executive officer or the chief counsel of the Franchise Tax Board, if so authorized by the executive officer. The statement shall include, but need not be limited to, all of the following information:

(1) The name or names of the parties.

(2) The total amount involved.

(3) The amount actually paid or refunded.

(4) A summary of the reasons why the settlement is in the best interests of the State of California.

(c) (1) Any recommendation for settlement shall be approved or disapproved by the Franchise Tax Board, itself.

(2) Any recommendation for settlement involving a combined reduction in tax, interest, additions to tax, or penalties in excess of five thousand dollars ($5,000) shall be approved only at a public meeting and shall require a disclosure of the legal and factual basis supporting a finding that the settlement is in the best interests of the state. Section 26451 shall not apply to any disclosures required to be made at this public meeting.

(3) Upon approval or disapproval of the recommendation for settlement, the matter shall be referred back to the executive officer or chief counsel of the Franchise Tax Board for ordinary processing in accordance with the decision of the Franchise Tax Board, itself.

(d) Except as provided in paragraph (2) of subdivision (c), a settlement made pursuant to this section constitutes confidential tax information for the purpose of Article 2 (commencing with Section 26451) of Chapter 24.

(e) This section shall apply to tax liabilities relating to returns required to be filed on or after March 15, 1989.

SEC. 4. Section 25962 of the Revenue and Taxation Code is amended to read:

25962. (a) Any person who—

(1) Willfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not

believe to be true and correct as to every material matter,

(2) Willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under, the Bank and Corporation Tax Law, of a return, affidavit, claim or other document, which is fraudulent or is false as to any material matter, whether or not that falsity or fraud is with the knowledge or consent of the person authorized or required to present that return, affidavit, claim, or document,

(3) Simulates or falsely or fraudulently executes or signs any bond, permit, entry, or other document required by the provisions of the Bank and Corporation Tax Law, or by any regulation made in pursuance thereof, or procures the same to be falsely or fraudulently executed or advises, aids in, or connives at that execution thereof,

(4) Removes, deposits, or conceals, or is concerned in removing, depositing, or concealing, any goods or commodities for or in respect whereof any tax is or shall be imposed, or any property upon which levy is authorized by Chapter 23 (commencing with Section 26131) of this part, with intent to evade or defeat the assessment or collection of any tax imposed by this part, or

(5) In connection with any settlement under Section 25782, or offer of that settlement, or in connection with any closing agreement under Section 25781 or offer to enter into any such agreement, willfully does any of the following:

(A) Conceals from any officer or employee of this state any property belonging to the estate of a taxpayer or other person liable in respect of the tax.

(B) Receives, withholds, destroys, mutilates, or falsifies any book, document, or record, or makes any false statement, relating to the estate or financial condition of the taxpayer or other person liable in respect of the tax, shall be guilty of a felony and, upon conviction thereof, shall be fined not more that one hundred thousand dollars ($100,000) or imprisoned not more than three years, or both, together with the costs of prosecution.

(b) The fact that an individual's name is signed to a return, statement, or other document filed shall be prima facie evidence for all purposes that the return, statement, or other document was actually signed by him or her.

SEC. 5. Part 301.7122-1 of Title 26 of the Code of Federal Regulations (relating to compromises), as that part existed as of July 1, 1988, shall be applicable to the extent not in conflict with Sections 1 and 3 of this act with due account for differences in federal and state terminology and other obvious differences.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 902

An act to amend Section 22308 of the Education Code, and to amend Section 20206.5 of the Government Code, relating to public retirement systems.

[Approved by Governor September 13, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 22308 of the Education Code is amended to read:

22308. The annual report of the board required under Section 22218 shall include a description of all securities held and a comprehensive report of transactions involving the investment of the retirement fund similar to that required of a life insurance company licensed to do business in California.

In the matter of stock exchange commission fees and other fees paid to persons not employed by the state for services in connection with investments under this chapter, the names of those persons to whom those fees are paid and the amounts paid shall be clearly identified in the report

The board shall also submit by November 1 of each year to the Assembly and the Senate, a report of the unaudited data compiled for the preparation of the report required by this section.

SEC. 2. Section 20206.5 of the Government Code is amended to read:

20206.5. The annual report of the board required under Section 20232 shall include a description of all securities held and a comprehensive report of transactions involving the investment of the retirement fund similar to that required of a life insurance company licensed to do business in California.

The annual report shall also include a detailed statement of the expenses of operating the retirement fund, including compensation paid, fees paid, operating ratios, and net profit and loss statements, including the acquisition cost, the book value, and market value of the total fund as of the date of the report.

In the matter of commission fees and other fees paid to persons not employed by the state for services in connection with investments under this article, the names of those persons to whom those fees are paid and the amounts paid shall be clearly identified in the report.

The board shall also submit by November 1 of each year to the Assembly and the Senate, a report of the unaudited data compiled for the preparation of the report required by this section.

CHAPTER 903

An act to amend Section 800 of the Government Code, relating to administrative proceedings.

[Approved by Governor September 13, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 800 of the Government Code is amended to read:

800. In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the State Board of Control, where it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she prevails in the civil action may collect reasonable attorney's fees, computed at one hundred dollars ($100) per hour, but not to exceed seven thousand five hundred dollars ($7,500), where he or she is personally obligated to pay the fees, from the public entity, in addition to any other relief granted or other costs awarded.

This section is ancillary only, and shall not be construed to create a new cause of action.

Refusal by a public entity or officer thereof to admit liability pursuant to a contract of insurance shall not be considered arbitrary or capricious action or conduct within the meaning of this section.

CHAPTER 904

An act to amend Section 6366.4 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 13, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 6366.4 of the Revenue and Taxation Code is amended to read:

6366.4. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption in this state of tangible personal property purchased by a nonprofit museum regularly open to the public which is operated by or for a local or state government entity, or operated by a

nonprofit organization which has qualified for exemption pursuant to Section 23701d, provided the property is purchased and used exclusively for display purposes within the museum.

(b) The exemption provided by this section extends only to items which have value as museum pieces and does not extend to display cases, shelving, lamps, lighting fixtures, or other items of tangible personal property utilized in the operation of a museum.

(c) For purposes of this section, a "museum" includes only any of the following:

(1) A museum which has a significant portion of its space open to the public without charge.

(2) A museum open to the public without charge for not less than six hours during any month the museum is open to the public.

(3) A museum which is open to a segment of the student or adult population without charge.

(d) This section applies only to the San Diego Aero-Space Museum and the California Museum of Science and Industry.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 905

An act to add Section 6403 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 13, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 6403 is added to the Revenue and Taxation Code, to read:

6403. The storage, use, or other consumption in this state of property donated by any retailer to any organization described in Section 170(b) (1) (A) of the Internal Revenue Code and located in California, is exempt from the use tax.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of

Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall become operative on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

CHAPTER 906

An act to amend Sections 19815 and 19883 of, and to add Section 22825.3 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1988 Filed with Secretary of State September 14, 1988]

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

SECTION 1. Section 19815 of the Government Code is amended to read:

19815. As used in this part:

(a) "Department" means the Department of Personnel Administration.

(b) "Director" means the Director of the Department of Personnel Administration.

(c) "Division" means the Division of Labor Relations.

(d) "Employee" or "state employee," except where otherwise indicated, means employees subject to the State Employer-Employee Relations Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), supervisory employees as defined in Section 3522.1, managerial employees as defined in subdivision (e) of Section 3513, confidential employees as defined in subdivision (f) of Section 3513, employees of the Legislative Counsel Bureau, employees of the Public Employment Relations Board, employees of the California Maritime Academy, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than audit staff, intermittent athletic inspectors who are employees of the State Athletic Commission, professional employees in the Personnel/Payroll Services Division of the Controller's office and all employees of the executive branch of government who are not elected to office.

SEC. 2. Section 19883 of the Government Code is amended to read:

19883. (a) Discretionary deductions of the employee, including those for coverage under a state health benefits plan in which the employee is enrolled, shall be deducted from the disability benefits under this article unless canceled by the employee. If an employee

deduction under a state health benefits plan is continued, the state employer contribution shall also continue.

An employee shall not receive service credit under the Public Employees' Retirement System or the State Teachers' Retirement System during the period of receipt of disability benefits under this article and contributions to the Public Employees' Retirement System or the State Teachers' Retirement System shall not be deducted. State employer contributions shall also not be made to either system during such period.

An employee shall not accrue sick leave or vacation credit or service credit for any other purpose during the period of receipt of disability benefits under this article, except, when provided by a rule or regulation adopted by the department, an employee receiving nonindustrial disability insurance benefits pursuant to Section 19879.1 may accrue these credits to the extent that annual leave or sick leave credits are used to supplement nonindustrial disability insurance benefits.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 22825.3 is added to the Government Code, to read:

22825.3. (a) Notwithstanding Sections 22825, 22825.1, and 22825.2, state employees who become state members after January 1, 1989, and who are members in state bargaining units for which a memorandum of understanding to become subject to this section has been agreed to by the state employer and the recognized employee organization shall not receive any portion of the employer's contribution payable for annuitants, pursuant to Section 22825.1, unless these employees are credited with 10 years of state service as defined by this section, at the time of retirement

(b) The percentage of employer contribution payable for postretirement health benefits for an employee subject to this section shall be based on the member's completed years of credited state service at retirement as shown in the following table:

Credited Years of Service	Percentage of Employer Contribution
10	50
11	55
12	60
13	65
14	70
15	75

16	80
17	85
18	90
19	95
20 or more	100

(c) This section shall apply only to state employees who retire for service.

(d) Benefits provided to an employee subject to this section shall be applicable to all future state service.

(e) For the purposes of this section, "state service" shall mean service rendered as an employee or an appointed or elected officer of the state for compensation.

(f) This section shall not apply to employees of the California State University.

SEC. 4. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 4 - California State Employees' Association dated August 30, 1988.

(b) Unit 7 - California Union of Safety Employees dated August 30, 1988.

(c) Unit 11 - California State Employees' Association dated August 30, 1988.

(d) Unit 14 - California State Employees' Association dated August 30, 1988.

(e) Unit 15 - California State Employees' Association dated August 30, 1988.

(f) Unit 19 - American Federation of State, County, and Municipal Employees dated August 31, 1988.

(g) Unit 20 - California State Employees' Association dated August 30, 1988.

SEC. 5. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

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

In order for the provisions of this act to be applicable as soon as possible in the 1988–89 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

SEC. 7. Any provision in a memorandum of understanding

approved by any section in this act and Assembly Bill No. 2599 which is scheduled to take effect on or after July 1, 1988, and which requires the expenditure of funds, shall not take effect unless funds for these provisions are specifically appropriated by the Legislature. In the event that funds for these provisions are not specifically appropriated by the Legislature, all or any part of any such memorandum of understanding may be declared null and void by any affected employee organization.

CHAPTER 907

An act to amend Section 9252 of, and to add Sections 9711, 29009, and 34507.5 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988.]

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

SECTION 1. Section 9252 of the Vehicle Code is amended to read:

9252. (a) In addition to the registration fee specified in Section 9250 and any weight fee, there shall be paid a service fee of ten dollars ($10) for the registration within this state of every vehicle purchased new outside this state or previously registered outside this state. If the vehicle has been registered and operated in this state during the same registration year in which application for registration is made, a fee of six dollars ($6) shall be paid.

(b) This section does not apply to vehicles registered as fleet vehicles under Article 5 (commencing with Section 8150) of Chapter 4, except upon application for a certificate of ownership.

SEC. 2. Section 9711 is added to the Vehicle Code, to read:

9711. This article does not apply to any owner or lessor of a commercial vehicle based in a foreign jurisdiction which does not grant reciprocity or proportionate registration to residents of this state while operating within that jurisdiction.

SEC. 3. Section 29009 is added to the Vehicle Code, to read:

29009. The requirements of Section 29004 do not apply to a dolly used to support a portion of special construction equipment, as defined in Section 565, which, due to its size or weight is being operated under the authority of a permit issued by the Department of Transportation, if the dolly is secured to the construction equipment, and the construction equipment is secured to the towing vehicle, by chain, cable, or equivalent devices of sufficient strength to control the construction equipment and dolly.

SEC. 4. Section 34507.5 is added to the Vehicle Code, to read:

34507.5. (a) Every motor carrier shall obtain a carrier identification number from the department. Application for a carrier

identification number shall be on forms furnished by the department. Information provided in connection with applications for carrier identification numbers shall be updated by motor carriers upon request from the department.

(b) (1) The carrier identification number shall be displayed on both sides of each vehicle set forth in Section 34500, or on both sides of at least one motor vehicle in each combination of vehicles.

(2) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of such size, shape, and color as to be readily legible during daylight hours from a distance of 50 feet.

(3) The carrier identification number shall be removed before sale, transfer, or other disposal of the vehicle.

(c) This section does not apply to vehicles which are regulated by, and which display a valid operating authority or identification number assigned by, the Interstate Commerce Commission, the Public Utilities Commission, or the United States Department of Transportation.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 908

An act to add Sections 12649 and 12674 to, and to repeal and add Section 12648 of, the Food and Agricultural Code, relating to agriculture, and declaring the urgency thereof, to take effect imediately.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988.]

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

SECTION 1. Section 12648 of the Food and Agricultural Code is repealed.

SEC. 2. Section 12648 is added to the Food and Agricultural Code, to read:

12648. (a) Notwithstanding any other provision of this code, a site within this state that has been treated with, or a plant, crop, or commodity, whether grown in this state or elsewhere, that has been treated with, or grown on a site treated with, an economic poison that is not registered for use on that plant, crop, commodity, or site is a public nuisance and may be seized by order of the director.

(b) The unlawful treatment described in subdivision (a) creates,

in favor of the director, rebuttable presumptions affecting the burden of producing evidence pursuant to Section 604 of the Evidence Code (1) that the treated plant, crop, commodity, or site, or any plant, crop, or commodity grown on the treated site, presents a hazard to human health or the environment, and (2) that the economic poison was used to gain an unfair business advantage for the owner or person in possession or control of the plant, crop, commodity, or site.

(c) The director shall provide notice to the owner or person in possession or control of the plant, crop, commodity, or site prior to seizure, unless the director has reason to believe that prior notice would result in the director's loss of control of that plant, crop, commodity, or site, in which case, notice shall be given as soon as practical, but, in any event within five days of the seizure. The notice shall specify the grounds for the seizure and provide that the owner or person in possession or control, within 15 days of receipt of the notice, may request a hearing before the director to contest the seizure or rebut the presumptions specified in subdivision (b). The hearing shall be held not later than five days from the date the owner or person's request is received by the director. The director shall render a written decision within five days of the hearing or within five days of the expiration of the time to request a hearing if no hearing was requested. The decision shall either release the plant, crop, commodity, or site from seizure or make any of the following orders:

(1) Destruction of the plant, crop, or commodity.

(2) Prohibition of harvest or sale of the plant, crop, or commodity grown on the site.

(3) Prohibition of the use or planting of the site, which may be for the period of any plant back time specified for the economic poison used on the site.

(4) Any other appropriate action or measure.

(d) Review of the decision of the director may be sought by the owner or person in possession or control of the plant, crop, commodity, or site pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 3. Section 12649 is added to the Food and Agricultural Code, to read:

12649. The director may bring an action to enjoin the violation or the threatened violation of any order made pursuant to Section 12648 in the superior court in the county in which the order was issued or the violation has occurred or is threatening to occur. The court may enjoin the violation or threatened violation upon this showing and without evidence of irreparable injury. The court may compel specific performance of any acts or course of conduct necessary to implement any order made pursuant to Section 12648.

SEC. 4. Section 12674 is added to the Food and Agricultural Code, to read:

12674. It is unlawful for any person to harvest, pack, ship, sell,

transport, destroy, or dispose of any plant, crop, or commodity which has been seized pursuant to Section 12648, except in accordance with the decision of the director issued pursuant to Section 12648, unless the person otherwise has received written permission from the director.

SEC. 5. The Legislature finds and declares all of the following:

(a) The proper, safe, and legal use of pesticides is essential for the production of food and fiber and for the protection of the public health and safety.

(b) The illegal use of pesticides on plants, crops, commodities, or sites not included in the pesticide's registered labeling can pose a serious threat to the environment and to the public health and can cause serious market disruption because of loss of consumer confidence.

(c) When a plant, crop, commodity, or site has received an illegal pesticide application, laboratory analysis cannot always guarantee that every individual fruit or vegetable within the plant, crop, commodity, or site is free of illegal pesticide and metabolite residues.

(d) Because harvest of a crop may occur very rapidly after the discovery of an illegal pesticide application, and once harvested the individual crop is difficult to trace in the wholesale and retail markets, immediate action may be necessary to ensure that produce with illegal residues does not reach the marketplace.

(e) Illegal pesticide applications are often made to gain an unfair advantage in the market, and it is unjust that those who illegally use pesticides should profit by planting or using the illegally treated site or harvesting, selling, and marketing the plant, crop, or commodity.

(f) It is necessary, because of the foregoing, to provide the Director of Food and Agriculture with the authority to seize plants, crops, commodities, or sites which have received illegal pesticide applications and order destruction of the plants, crops, or commodities.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the Director of Food and Agriculture to better safeguard the public's health in the production and consumption of raw agricultural products from the unlawful use of pesticides in this state during the 1988 growing season, it is necessary that this act take effect immediately.

CHAPTER 909

An act to amend Section 313.1 of the Penal Code, relating to crimes.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988.]

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

SECTION 1. Section 313.1 of the Penal Code is amended to read:

313.1. (a) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit any harmful matter to the minor is guilty of a misdemeanor.

(b) Every person who misrepresents himself to be the parent or guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful matter is guilty of a misdemeanor.

(c) Any person who knowingly displays, sells, or offers to sell in any coin- or slug-operated vending machine or mechanically or electronically controlled vending machine which is located in a public place, other than a public place from which minors are excluded, any harmful matter displaying to the public view photographs or pictorial representations of the commission of any of the following acts is guilty of a misdemeanor: sodomy, oral copulation, sexual intercourse, masturbation, bestiality, or a photograph of an exposed penis in an erect and turgid state.

(d) Nothing in this section invalidates or prohibits the adoption of an ordinance by a city, county, or city and county which restricts the display of material which is harmful to minors, as defined in this chapter, in a public place, other than a public place from which minors are excluded, by requiring the placement of devices commonly known as blinder racks in front of the material, so that the lower two-thirds of the material is not exposed to view.

SEC. 2. Section 313.1 of the Penal Code is amended to read:

313.1. (a) Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including, but not limited to, live or recorded telephone messages, any harmful matter to the minor is guilty of a misdemeanor.

It does not constitute a violation of this section for a telephone corporation, as defined by Section 234 of the Public Utilities Code, to carry or transmit messages described in this chapter or perform related activities in providing telephone services.

(b) Every person who misrepresents himself to be the parent or guardian of a minor and thereby causes the minor to be admitted to an exhibition of any harmful matter is guilty of a misdemeanor.

(c) Any person who knowingly displays, sells, or offers to sell in any coin- or slug-operated vending machine or mechanically or electronically controlled vending machine which is located in a public place, other than a public place from which minors are excluded, any harmful matter displaying to the public view photographs or pictorial representations of the commission of any of the following acts is guilty of a misdemeanor: sodomy, oral copulation, sexual intercourse, masturbation, bestiality, or a photograph of an exposed penis in an erect and turgid state.

(d) Nothing in this section invalidates or prohibits the adoption of an ordinance by a city, county, or city and county which restricts the display of material which is harmful to minors, as defined in this chapter, in a public place, other than a public place from which minors are excluded, by requiring the placement of devices commonly known as blinder racks in front of the material, so that the lower two-thirds of the material is not exposed to view.

(e) It shall be a defense in any prosecution for a violation of subdivision (a) by a person who knowingly distributed any harmful matter by the use of telephones or telephone facilities to any person under the age of 18 years that the defendant has taken either of the following measures to restrict access to the harmful matter by persons under 18 years of age:

(1) Required the person receiving the harmful matter to use an authorized access or identification code, as provided by the information provider, before transmission of the harmful matter begins, where the defendant has previously issued the code by mailing it to the applicant after taking reasonable measures to ascertain that the applicant was 18 years of age or older and has established a procedure to immediately cancel the code of any person after receiving notice, in writing or by telephone, that the code has been lost, stolen, or used by persons under the age of 18 years or that the code is no longer desired.

(2) Required payment by credit card before transmission of the matter.

(f) Any list of applicants or recipients compiled or maintained by an information-access service provider for purposes of compliance with paragraph (1) of subdivision (e) is confidential and shall not be sold or otherwise disseminated except upon order of the court.

SEC. 3. Section 2 of this bill incorporates amendments to Section 313.1 of the Penal Code proposed by both this bill and AB 3568. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 313.1 of the Penal Code, and (3) this bill is enacted after AB 3568, in which case Section 1 of this bill shall not become operative.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty

for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 910

An act to amend Sections 65863.7 and 65863.8 of the Government Code, relating to housing.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988.]

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

SECTION 1. Section 65863.7 of the Government Code is amended to read:

65863.7. (a) Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

(b) The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

(f) If the closure or cessation of use of a mobilehome park results

from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 to cover any costs incurred by the local agency in implementing this section and Section 65863.8. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

SEC. 2. Section 65863.7 of the Government Code is amended to read:

65863.7. (a) Prior to the conversion of a mobilehome park to another use, except pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7), or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

(b) The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the legislative body.

(c) When the impact report is filed prior to the closure or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code.

(d) When the impact report is filed prior to the closure or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the legislative body on the sufficiency of the report.

(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation.

(f) If the closure or cessation of use of a mobilehome park results from an adjudication of bankruptcy, the provisions of this section shall not be applicable.

(g) The legislative body may establish reasonable fees pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 of Title 5 to cover any costs incurred by the local agency in

implementing this section and Section 65863.8. Those fees shall be paid by the person or entity proposing the change in use.

(h) This section is applicable to charter cities.

(i) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the mobilehome park has operated, or as a result of any other zoning or planning decision, action, or inaction. In this case, the local governmental agency is the person proposing the change in use for the purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e).

SEC. 3. Section 65863.8 of the Government Code is amended to read:

65863.8. A local agency to which application has been made for the conversion of a mobilehome park to another use shall, at least 30 days prior to a hearing or any other action on the application, inform the applicant in writing of the provisions of Section 798.56 of the Civil Code and all applicable local requirements which impose upon the applicant a duty to notify residents and mobilehome owners of the mobilehome park of the proposed change in use, and shall specify therein the manner in which the applicant shall verify that residents and mobilehome owners of the mobilehome park have been notified of the proposed change in use. Neither a hearing on the application, nor any other action thereon, shall be taken by the local agency before the applicant has satisfactorily verified that the residents and mobilehome owners have been so notified, in the manner prescribed by law or local regulation.

This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends that date.

SEC. 4. Section 2 of this bill incorporates amendments to Section 65863.7 of the Government Code proposed by both this bill and AB 3085. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 65863.7 of the Government Code, and (3) this bill is enacted after AB 3085, in which case Section 1 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 911

An act to amend Sections 246 and 247 of the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 246 of the Penal Code is amended to read:

246. Any person who shall maliciously and willfully discharge a firearm at an inhabited dwelling house, occupied building, occupied motor vehicle, occupied aircraft, inhabited housecar, as defined in Section 362 of the Vehicle Code, or inhabited camper, as defined in Section 243 of the Vehicle Code, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for three, five, or seven years, or by imprisonment in the county jail for a term of not less than six months and not exceeding one year.

As used in this section, "inhabited" means currently being used for dwelling purposes, whether occupied or not.

SEC. 2. Section 247 of the Penal Code is amended to read:

247. (a) Any person who willfully and maliciously discharges a firearm at an unoccupied aircraft is guilty of a felony.

(b) Any person who discharges a firearm at an unoccupied motor vehicle or an uninhabited building or dwelling house is guilty of a public offense punishable by imprisonment in the county jail for not more than one year or in the state prison. This subdivision does not apply to shooting at an abandoned vehicle, unoccupied vehicle, uninhabited building, or dwelling house with the permission of the owner.

As used in this section and Section 246 "aircraft" means any contrivance intended for and capable of transporting persons through the airspace.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

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

In order to make the malicious and willful discharge of a firearm at an occupied aircraft a misdemeanor or felony offense and in order to make it a misdemeanor to discharge a firearm at uninhabited buildings and dwelling houses at the earliest possible time, thereby

minimizing damage to real and personal property and the possibility of great bodily injury and death, it is necessary that this act take effect immediately.

CHAPTER 912

An act to amend, and amend and renumber, Section 53077.5 of the Government Code, relating to development fees.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988.]

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

SECTION 1. Section 53077.5 of the Government Code is amended to read:

53077.5. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first, provided, that utility service fees may be collected at the time an application for utility service is received. If the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the

local agency issuing the building permit may require the applicant, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the initial holder of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the building permit holder as grantor.

(3) The contract may require the building permitholder to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) "Local agency," as used in this section, means a county, city, or city and county, whether general law or chartered, or district. "District" means an agency of the state, formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(e) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(f) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

(g) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 2. Section 53077.5 of the Government Code is amended and renumbered to read:

66007. (a) Except as otherwise provided in subdivision (b), any local agency which imposes any fees or charges on a residential development for the construction of public improvements or facilities shall not require the payment of those fees or charges, notwithstanding any other provision of law, until the date of the final inspection, or the date the certificate of occupancy is issued, whichever occurs first. However, utility service fees may be collected at the time an application for utility service is received. If

the residential development contains more than one dwelling, the local agency may determine whether the fees or charges shall be paid on a pro rata basis for each dwelling when it receives its final inspection or certificate of occupancy, whichever occurs first; on a pro rata basis when a certain percentage of the dwellings have received their final inspection or certificate of occupancy, whichever occurs first; or on a lump-sum basis when the first dwelling in the development receives its final inspection or certificate of occupancy, whichever occurs first.

(b) Notwithstanding subdivision (a), the local agency may require the payment of those fees or charges at an earlier time if (1) the local agency determines that the fees or charges will be collected for public improvements or facilities for which an account has been established and funds appropriated and for which the local agency has adopted a proposed construction schedule or plan prior to final inspection or issuance of the certificate of occupancy or (2) the fees or charges are to reimburse the local agency for expenditures previously made. "Appropriated," as used in this subdivision, means authorization by the governing body of the local agency for which the fee is collected to make expenditures and incur obligations for specific purposes.

(c) (1) If any fee or charge specified in subdivision (a) is not fully paid prior to issuance of a building permit for construction of any portion of the residential development encumbered thereby, the local agency issuing the building permit may require the applicant, as a condition of issuance of the building permit, to execute a contract to pay the fee or charge, or applicable portion thereof, within the time specified in subdivision (a). If the fee or charge is prorated pursuant to subdivision (a), the obligation under the contract shall be similarly prorated.

(2) The obligation to pay the fee or charge shall inure to the benefit of, and be enforceable by, the local agency that imposed the fee or charge, regardless of whether it is a party to the contract. The contract shall be recorded in the office of the county recorder of the county and, from the date of recordation, shall constitute a lien for the payment of the fee or charge, which shall be enforceable against successors in interest to the initial holder of the building permit. The contract shall be recorded in the grantor-grantee index in the name of the public agency issuing the building permit as grantee and in the name of the building permit holder as grantor.

(3) The contract may require the building permitholder to provide appropriate notification of the opening of any escrow for the sale of the property for which the building permit was issued and to provide in the escrow instructions that the fee or charge be paid to the local agency imposing the same from the sale proceeds in escrow prior to disbursing proceeds to the seller.

(d) This section applies only to fees collected by a local agency to fund the construction of public improvements or facilities. It does not apply to fees collected to cover the cost of code enforcement or

inspection services, or to other fees collected to pay for the cost of enforcement of local ordinances or state law.

(e) "Final inspection" or "certificate of occupancy," as used in this section, have the same meaning as described in Sections 305 and 307 of the Uniform Building Code, International Conference of Building Officials, 1985 Edition.

(f) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1993, deletes or extends that date.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution, because this act does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of the Government Code.

SEC. 4. Section 2 of this bill incorporates amendments to Section 53077.5 of the Government Code proposed by both this bill and AB 3980. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends, or amends and renumbers, Section 53077.5 of the Government Code, and (3) this bill is enacted after AB 3980, in which case Section 1 of this bill shall not become operative.

CHAPTER 913

An act to add and repeal Section 12804.4 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 12804.4 is added to the Vehicle Code, to read:

12804.4. (a) If the holder of a class 1 or class 2 driver's license is required to have any medical certificate in his or her immediate possession pursuant to subdivision (c) of Section 12804, a copy of the medical certificate shall be on file with the department, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(b) If the holder of a special driver certificate is required to have any medical certificate in his or her immediate possession pursuant to paragraph (2) of subdivision (d) of Section 12804, a copy of the medical certificate shall be on file with the department, otherwise the special driver certificate shall not be valid.

SEC. 2. Section 12804.4 is added to the Vehicle Code, to read:

12804.4. (a) If the holder of a class 1 or class 2 driver's license is required to have any medical certificate in his or her immediate possession pursuant to subdivision (c) of Section 12804, a copy of the medical certificate shall be on file with the department, otherwise the license shall be valid only for operating class 3 vehicles and class 4 vehicles if so endorsed.

(b) If the holder of a special driver certificate is required to have any medical certificate in his or her immediate possession pursuant to paragraph (2) of subdivision (d) of Section 12804, a copy of the medical certificate shall be on file with the department, otherwise the special driver certificate shall not be valid.

(c) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute which is enacted on or before January 1, 1993, deletes or extends that date.

SEC. 3. Section 2 of this bill shall become operative only if Senate Bill 2594 is enacted and amends and repeals Section 12804 of the Vehicle Code, in which case Section 1 of this bill shall not become operative.

CHAPTER 914

An act to amend Sections 14036, 14060, 14066, 14524.5 of, and to add Sections 14036.1 and 14037 to, the Government Code, to amend Sections 99233.4, 99234.9, 99317.2, 99317.4, 99317.6, 99317.8, and 99400 of, to add Section 99317.10 to, and to repeal Section 99233.6 of, the Public Utilities Code, and to add Section 199.7 to the Streets and Highways Code, relating to transportation, and making an appropriation therefor.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 14036 of the Government Code is amended to read:

14036. The department shall prepare a rail passenger development plan annually for submission to the Legislature, the Governor, the Public Utilities Commission, and the California Transportation Commission. The plan shall be submitted to the commission by each January 1 for its advice and consent and to the Legislature, the Governor, and the Public Utilities Commission by the following March 1 The plan shall consist of all of the following:

(a) For capital and operating subsidies, all actual encumbrances for the prior year; and for state operations, all actual expenditures for the prior year. All revenues shall be identified by source. Variances in expenditures from the prior year's plan for capital and operating subsidies shall be identified for each route.

(b) For capital and operating subsidies, estimated encumbrances and revenues for the current year; and for state operations, estimated expenditures for the current year. The department shall use the same format as is required for prior year expenditures pursuant to subdivision (a).

(c) For the budget year and the four following fiscal years, proposed encumbrances for capital and operating subsidies shall be reported in the same format as is required for prior year's expenditures. For state operations, proposed expenditures for the budget year shall be reported.

(d) The identification and cost of capital facilities necessary to enhance competitiveness of rail passenger services, including, for each intercity route, a list of at least the three highest priority capital improvement projects, with cost estimates and a funding plan.

(e) A performance evaluation of all services in operation, including performance trends, potential for efficiency and effectiveness, possible improvements, and strategies to achieve that potential.

(f) A recommendation of a level of and program for services over a five-year period, including a list of service enhancements on existing and additional routes, with funding and priority recommendations.

(g) An evaluation of reports by regional planning agencies and county transportation commissions on commuter service alternatives in their regions, including presentation of their recommendations.

(h) A map showing all existing intercity and commuter passenger rail routes and services, all proposed intercity and commuter passenger rail routes and services, and all intercity and commuter passenger rail routes and services that are the subject of feasibility studies.

This report shall be prepared in consultation with the Public Utilities Commission and the National Rail Passenger Corporation. The department may consult with other agencies, organizations, and persons with expertise. The department shall employ realistic assumptions, using Public Utilities Commission cost data whenever possible, with respect to the level of services it can provide and the cost of these services when developing the plan.

SEC. 2. Section 14036.1 is added to the Government Code, to read:

14036.1. As part of its ongoing marketing activities to increase the utilization and performance of rail and bus services operated pursuant to this article, the department may seek to increase awareness of these services on the part of students attending public and private colleges and universities located in cities served by these trains and feeder buses. The department, in cooperation with public college and university systems, may develop suitable materials for regular distribution to students at the beginning of academic terms. The department may also work with the National Railroad Passenger

Corporation (Amtrak) to implement student multiride discount ticketing programs designed for home to college trips, similar to programs already implemented in other states by Amtrak and the state agency responsible for intercity rail passenger service.

The Legislature finds that college students, while potentially a natural market for these public transportation services, are frequently unaware of these services. Marketing activities should recognize the highly transient nature of college students and the need to continuously publicize available services using inexpensive media where appropriate.

The department shall report on its marketing activities, including activities conducted pursuant to this section, in the rail passenger development plan prepared pursuant to Section 14036.

SEC. 3. Section 14037 is added to the Government Code, to read:

14037. Funds which are available to the department for rail and bus operations may be used by the department for maintenance of capital facilities related to rail or bus services provided, or for minor capital improvement projects related to rail and bus services provided, if the department determines that this use of funds would improve the operation of a service. As used in this section, a "minor capital improvement project" means a project within the limits of expenditure and scope equivalent to the standards established pursuant to subdivision (c) of Section 14529 for minor highway projects.

SEC. 4. Section 14060 of the Government Code is amended to read:

14060. The following definitions apply to this article:

(a) "Equipment" means rail passenger cars, locomotives, other rail vehicles, bus and van fleets, and ferryboats.

(b) "Equipment obligations" means notes, equipment trust certificates, or other obligations, including grant anticipation notes, issued by the department pursuant to this article to finance the acquisition of equipment.

(c) "Grant anticipation notes" means notes issued by the department in anticipation of the receipt of funds from the federal or a local government as the proceeds of grants or participation funding for which funds have been appropriated and committed to the department for equipment acquisition.

(d) "Passenger rail capital improvements" includes, but is not limited to, crossings, stations, parking facilities, trackwork, maintenance facilities, and other similar facilities.

SEC. 5. Section 14066 of the Government Code is amended to read:

14066. (a) The Passenger Equipment Acquisition Fund is hereby created in the State Treasury. Notwithstanding Section 13340, all moneys in the fund are continuously appropriated to the department to pay the principal of, interest on, and redemption premium, if any, on equipment obligations, to pay all costs of issuance and sale of equipment obligations, to purchase new and rehabilitate

existing equipment, and for passenger rail capital improvements.

(b) The net proceeds derived from the sale and leaseback of equipment made pursuant to this article shall be deposited in the fund.

SEC. 6. Section 14524.5 of the Government Code is amended to read:

14524.5. The estimate of the department and the estimate of the commission shall include an estimate of the funds from the State Highway Account and the Transportation Planning and Development Account in the State Transportation Fund that will be available for exclusive public mass transit guideway projects and the other transit capital improvements authorized by Section 99317 of the Public Utilities Code. The estimate of funds from the State Highway Account shall be consistent with the funding levels specified in Section 164 of the Streets and Highways Code.

SEC. 7. Section 99233.4 of the Public Utilities Code is amended to read:

99233.4. Allocations shall be made for rail passenger service operations and capital improvements pursuant to Section 99234.5 or 99234.9.

SEC. 8. Section 99233.6 of the Public Utilities Code is repealed.

SEC. 9. Section 99234.9 of the Public Utilities Code is amended to read:

99234.9. Any county, city, county transportation commission, or operator may file claims with the transportation planning agency for rail passenger service operation expenditures and capital improvement expenditures. These funds may be used as the entity's required contribution toward the cost of providing these services or capital improvements. The capital expenditure requirements of Section 99267 shall not apply to allocations made for purposes of this section.

SEC. 10. Section 99317.2 of the Public Utilities Code is amended to read:

99317.2. Funds made available pursuant to paragraph (1) of subdivision (a) of Section 99317 shall be allocated for the acquisition of only those rights-of-way of abandoned railroad lines that can be developed for busway or exclusive public mass transit guideway projects.

SEC. 11. Section 99317.4 of the Public Utilities Code is amended to read:

99317.4. Funds made available pursuant to paragraph (2) of subdivision (a) of Section 99317 shall be allocated to operators for the acquisition and rehabilitation of used or debilitated buses to extend their service life.

Section 4500 of the Government Code does not apply to any bus rehabilitated pursuant to this section if, prior to rehabilitation, the bus did not conform to that section.

SEC. 12. Section 99317.6 of the Public Utilities Code is amended to read:

99317.6. Funds made available pursuant to paragraph (3) of subdivision (a) of Section 99317 shall be allocated to the department, public entities in counties which have approved a proposition pursuant to Section 4 of Article XIX of the California Constitution, and public entities in nonurbanized areas within the jurisdiction of a statutorily created transportation planning agency having jurisdiction over portions of two counties, for public mass transit guideways and rolling stock.

SEC. 13. Section 99317.8 of the Public Utilities Code is amended to read:

99317.8. Funds made available pursuant to paragraph (4) of subdivision (a) of Section 99317 shall be allocated for grade separation projects on only those railroad lines over which four or more railroad passenger trains operate daily, but only if the affected railroad corporation contributes funds to finance each grade separation project in an amount at least equal to 5 percent of the cost of the project.

SEC. 14. Section 99317.10 is added to the Public Utilities Code, to read:

99317.10. A public entity shall not be eligible to receive an allocation for funding of an intermodal transfer station pursuant to paragraph (5) of subdivision (a) of Section 99317 unless it first agrees that, upon any future request of the department, it will authorize a state-funded bus service to use the station without any charge to the department or its contractors and it will assist the department in the placement of signs and informational material designed to alert the public to the availability of the state-funded bus service. For the purpose of this section, "state-funded bus service" means any bus service funded pursuant to Section 99316.

SEC. 15. Section 99400 of the Public Utilities Code is amended to read:

99400. Claims may be filed under this article with the transportation planning agency by counties and cities for the following purposes and by transit districts for the purposes specified in subdivisions (c) to (e), inclusive:

(a) Local streets and roads, and projects which are provided for use by pedestrians and bicycles.

(b) Payments to the National Railroad Passenger Corporation for passenger rail service operations and capital improvements under Section 403(b) of the Federal Rail Passenger Service Act (45 U.S.C. Sec. 563(b)).

(c) Payment to any entity which is under contract with a county, city, or transit district for public transportation or for transportation services for any group, as determined by the transportation planning agency, requiring special transportation assistance.

If the county, city, or transit district is being served by an operator, the contract entered into by the county, city, or transit district shall specify the level of service to be provided, the operating plan to implement that service, and how that service is to be coordinated

with the public transportation service provided by the operator. Prior to approving any claim filed under this section, the transportation planning agency, or the county transportation commission in a county with such a commission, shall make a finding that the transportation services contracted for under subdivision (c) are responding to a transportation need not otherwise being met within the community or jurisdiction of the claimant and that, where appropriate, the services are coordinated with the existing transportation service.

(d) Payments to counties, cities, and transit districts for their administrative and planning cost with respect to transportation services under subdivision (c).

(e) Notwithstanding any other provision of this chapter, a claimant for funds pursuant to subdivision (c) may also receive payments for capital expenditures to acquire vehicles and related equipment, bus shelters, bus benches, and communication equipment for the transportation services.

SEC. 16. Section 199.7 is added to the Streets and Highways Code, to read:

199.7. A local entity may request the department to submit an application for funding of a project pursuant to subdivision (b) of Section 199 of the Streets and Highways Code, if the project is designed to improve an exclusive public mass transit guideway which the state, rather than the local entity, operates or contracts to have operated.

CHAPTER 915

An act to amend Sections 308, 1202.1, 1300, 1301, 1306, 3502, 3520, 5350, 5354, 10219, 14810, 14811, 14820, 14821, 27210, and 27211 of, and to add Sections 1304.5, 1305.5, and 24005 to, the Elections Code, relating to elections.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 308 of the Elections Code is amended to read:

308. No county clerk may refuse to deputize any person to register voters because of race, creed, color, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age.

SEC. 2. Section 1202.1 of the Elections Code is amended to read:

1202.1. (a) Notwithstanding any other provision of the law, a special absentee voter who qualifies pursuant to this section may apply for a special absentee voter ballot. Any application made pursuant to this section which is received by the clerk prior to the

60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If a special absentee voter submits an application containing a statement that provides that due to military or other contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as a special absentee voter, the clerk shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 1200. The clerk shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and a list of all measures which are to be submitted to the voters and to which the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 17101 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The clerk shall receive and canvass special absentee voter ballots described in this section under the same procedure as absent voter ballots, insofar as that procedure is not inconsistent with the provisions of this section, except that prior to election day, special absentee voter ballots shall be secured separately in a sealed ballot box reserved for that purpose.

(e) In the event that a voter executes a special absentee ballot pursuant to this section and the military or other contingency does not exist during the normal absentee voting period, that voter may make an application for an absentee ballot pursuant to Sections 1200 and 1201. If an application is made pursuant to this subdivision, the clerk shall reject the voted ballot previously cast and process the application in accordance with Chapter 1 (commencing with Section 1000).

SEC. 3. Section 1300 of the Elections Code is amended to read:

1300. It is the intent and purpose of the Legislature that the provisions set forth in this chapter are designed to facilitate the federal mandate of the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99-410).

SEC. 4. Section 1301 of the Elections Code is amended to read:

1301. As used in this chapter, "federal election" means any presidential election, general election, primary election, or special election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice President, presidential elector, Member of the United States Senate, or Member of the United States House of Representatives. "Overseas voter" includes uniformed and overseas voters.

SEC. 5. Section 1304.5 is added to the Elections Code, to read:

1304.5. (a) A voter described in Section 1303 may apply for an absent voter ballot Any application made pursuant to this section

which is received by the clerk prior to the 60th day before the election shall be kept and processed on or after the 60th day before the election.

(b) If the voter submits an application containing a statement that provides that due to contingencies that preclude normal mail delivery, as specified by the voter, the voter cannot vote an absentee ballot during the normal absentee voting period, and the voter is otherwise qualified to vote as provided in this chapter, the clerk shall immediately send the voter a ballot in a form prescribed and provided by the Secretary of State, or a ballot and voter registration card if required by Section 1306. The clerk shall send with the ballot a list of all candidates who have qualified for the ballot by the 60th day before the election and for whom the voter is qualified to vote. The voter shall be entitled to write in the name of any specific candidate seeking the nomination or election to any office listed on the ballot.

(c) Notwithstanding Section 17101 or any other provision of law, any name written upon a ballot for a particular office pursuant to subdivision (b) shall be counted for the office or nomination.

(d) The clerk shall receive and canvass the absent voter ballots described in this section under the same procedure as other absent voter ballots, insofar as that procedure is not inconsistent with this section, except that prior to election day, the absent voter ballots described in this section shall be secured separately in a sealed ballot box reserved for that purpose.

SEC. 6. Section 1305.5 is added to the Elections Code, to read:

1305.5. Any absent voter ballot application by a qualified voter, as described in this chapter, for a primary election shall also be deemed an application for an absent voter ballot for the subsequent general election.

SEC. 7. Section 1306 of the Elections Code is amended to read:

1306. (a) As soon as possible after the 60th day before the federal election, the county clerk shall mail or deliver a ballot to each person who has requested registration as an overseas voter since the last regularly scheduled federal election.

(b) If the overseas voter has not correctly completed and returned a federal application for an absentee ballot or a special affidavit of registration as an overseas voter since the last regularly scheduled federal election the clerk shall enclose an affidavit with the ballot.

(c) The overseas voter shall be informed of the following:

(1) That the affidavit must be correctly completed and returned with the ballot in order for the vote to be tallied.

(2) That the voter's registration will be valid through the next general election, and that the ballots for these elections will be sent to the voter at the mailing address provided by the voter, but that following the general election, the voter must reapply in order to again receive an overseas voter ballot.

(d) The affidavits of registration mailed or delivered pursuant to

this section shall conform to Section 506, except as modified pursuant to regulations adopted by the Secretary of State to reflect the requirements of this chapter.

(e) Absent voter ballots mailed or delivered pursuant to this section shall be modified pursuant to regulations adopted by the Secretary of State so as to show only those offices for which the overseas resident is entitled to vote.

SEC. 8. Section 3502 of the Elections Code is amended to read:

3502. Prior to the circulation of any initiative or referendum petition for signatures, a draft of the proposed measure shall be submitted to the Attorney General with a written request that a title and summary of the chief purpose and points of the proposed measure be prepared. The title and summary shall not exceed a total of 100 words.

The persons presenting the request shall be known as the "proponents."

The Attorney General shall preserve the written request until after the next general election.

SEC. 9. Section 3520 of the Elections Code is amended to read:

3520. (a) Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all sections circulated in any county or city and county shall be filed at the same time.

(b) Within five days, excluding Saturdays, Sundays, and holidays, after the filing of the petition, the clerk or registrar of voters shall determine the total number of signatures affixed to the petition and shall transmit this information to the Secretary of State. If the total number of signatures filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient, the Secretary of State shall so notify the proponents and the county clerks and no further action shall be taken in regard to the petition.

(c) If the number of signatures filed with all county clerks is 100 percent or more of the number of qualified voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks.

(d) Within 15 days after this notification, excluding Saturdays, Sundays, and holidays, the clerk or registrar of voters shall determine the number of qualified voters who have signed the petition. If more than 500 names have been signed on sections of the petition filed with a county clerk, the clerk shall use a random sampling technique for verification of signatures, as determined by the Secretary of State. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the county clerk shall be given an equal opportunity to be included in the sample. Such a random sampling shall include an examination of at least 500 or 5 percent of the signatures, whichever is greater. In determining from the records of registration what number of qualified voters have signed the petition, the clerk or registrar of voters may use the

duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(e) The clerk or registrar, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, a certificate properly dated, showing the result of the examination and shall immediately transmit the petition, together with the certificate, to the Secretary of State. A copy of this certificate shall be filed in the clerk's office.

(f) If the certificates received from all county clerks by the Secretary of State establish that the number of valid signatures does not equal 95 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the proponents and the county clerks.

(g) If the certificates received from all county clerks by the Secretary of State total more than 110 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of certificates showing the petition to have reached the 110 percent, and the Secretary of State shall immediately so notify the proponents and the county clerks.

SEC. 10. Section 5350 of the Elections Code is amended to read:

5350. All arguments concerning measures filed pursuant to this division shall be accompanied by the following form statement, to be signed by each author of the argument:

The undersigned author(s) of the _____
(primary/rebuttal)
argument _____
(in favor of/against)
ballot proposition _____
(name or number)
at the _____
(title of election)
election for the _____
(jurisdiction)
to be held on _____
(date)
hereby state that such argument is true and correct to the best of _____ knowledge and belief.
(his/her/their)
Signed _____ Date _____
_____ _____
_____ _____

SEC. 11. Section 5354 of the Elections Code is amended to read:

5354. (a) Notwithstanding any other provision of law, any person may engage in good faith bargaining between competing

interests to secure legislative approval of matters embraced in a state or local initiative or referendum measure, and the proponents may, as a result of these negotiations, withdraw the measure at any time before filing the petition with the appropriate elections official.

(b) Withdrawal of state measures shall be effective upon receipt by the Secretary of State of a written notice of withdrawal signed by all proponents of the measure.

(c) Withdrawal of local measures shall be effective upon receipt by the appropriate local elections official of a written notice of withdrawal signed by all proponents of the measure.

SEC. 12. Section 10219 of the Elections Code is amended to read:

10219. In an election at which state, county, city, or other local measures are submitted to a vote of the voters, all state measures shall be numbered in numerical order, as provided in this chapter or division. All county, city, or other local measures shall be designated by a letter, instead of a figure, printed on the left margin of the square containing the description of the measure, commencing with the letter "A" and continuing in alphabetical order, one letter for each such measure appearing on the ballot.

An elections official may commence designating local measures with any letter of the alphabet following the letter "A" and continuing in alphabetical order in order to avoid voter confusion that might result from different local measures carrying the same letter designation in successive elections.

Where two or more counties or cities submitting measures to the voters are in close proximity, the clerks of those counties or cities may mutually agree to use letter designation for ballot measures that will not conflict or confuse the voter.

SEC. 13. Section 14810 of the Elections Code is amended to read:

14810. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The packages containing the following ballots and identification envelope shall be kept by the elections official, unopened and unaltered, for 22 months subsequent to the date of the declaration of the result of the election:

(1) Voted polling place ballots.

(2) Voted absent voter ballots.

(3) Absent voter identification envelopes.

(4) Spoiled ballots.

(5) Canceled ballots.

(6) Unused absent voters ballots surrendered by the voter pursuant to Section 1012.

(7) Ballot receipts.

(c) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the 22-month period, either of which may

involve the vote of the precinct from which voted ballots were received, the elections official may have the ballots destroyed or recycled.

SEC. 14. Section 14811 of the Elections Code is amended to read:

14811. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 14810. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The packages containing the following ballots and identification envelopes shall be kept by the elections official, unopened and unaltered, for six months subsequent to the date of the declaration of the result of the election:

(1) Voted polling place ballots.

(2) Voted absent voter ballots.

(3) Absent voter identification envelopes.

(4) Spoiled ballots.

(5) Canceled ballots.

(6) Unused absent voter ballots surrendered by the voter pursuant to Section 1012.

(7) Ballot receipts.

(c) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots or forgery of absent voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official may have the packages destroyed or recycled.

SEC. 15. Section 14820 of the Elections Code is amended to read:

14820. (a) The following provisions shall apply to those elections where candidates for one or more of the following offices are voted upon: President, Vice President, United States Senator, and United States Representative.

(b) The elections official shall preserve the package or packages containing the following items for a period of 22 months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes.

(d) If a contest is not commenced within the 22-month period, or if a criminal prosecution involving fraudulent use, marking, or falsification of ballots or forgery of absent voters' signatures is not commenced within the 22-month period, either of which may involve the vote of the precinct from which voted ballots were received, the elections official may have the packages destroyed or recycled.

SEC. 16. Section 14821 of the Elections Code is amended to read:

14821. (a) The following provisions shall apply to all state or local elections not provided for in subdivision (a) of Section 14820. An election is not deemed a state or local election if votes for candidates for federal office may be cast on the same ballot as votes for candidates for state or local office.

(b) The elections official shall preserve the package or packages containing the following items for a period of six months:

(1) Two tally sheets.

(2) The copy of the index used as the voting record.

(3) The challenge lists.

(4) The assisted voters list.

(c) All voters may inspect the contents of the package or packages at all times following commencement of the official canvass of the votes.

(d) If a contest is not commenced within the six-month period, or if a criminal prosecution involving fraudulent use, marking or falsification of ballots, or forgery of absent voters' signatures is not commenced within the six-month period, either of which may involve the vote of the precinct from which voted ballots were received, the election official may have the packages destroyed or recycled.

SEC. 17. Section 24005 is added to the Elections Code, to read:

24005. Notwithstanding Section 5012 of the Education Code, if a declaration of candidacy for an incumbent member of a school district or community college district governing board or of a county board of education is not filed by 5 p.m. on the 88th day before the election, any person, other than the person who was the incumbent on the 88th day, shall have until 5 p.m. on the 83rd day before an election to file a declaration of candidacy for the elective office.

This section is not applicable where there is no incumbent eligible to be elected.

SEC. 18. Section 27210 of the Elections Code is amended to read:

27210. A recall petition shall be submitted to the clerk for filing in his or her office during normal office hours as posted within the following number of days after the clerk or, in the case of a recall of a state officer, the Secretary of State, notifies the proponents that the form and wording of the petition meets the requirements of Article 3 (commencing with Section 27030) of Chapter 1 of this division:

(a) Forty days if the electoral jurisdiction has less than 1,000 registered voters.

(b) Sixty days if the electoral jurisdiction has less than 5,000 registered voters but at least 1,000.

(c) Ninety days if the electoral jurisdiction has less than 10,000 registered voters but at least 5,000.

(d) One hundred twenty days if the electoral jurisdiction has less than 50,000 registered voters but at least 10,000.

(e) One hundred sixty days if the electoral jurisdiction has 50,000 registered voters or more.

The number of registered voters shall be that which was reported at the last report of registration by the county clerk to the Secretary of State pursuant to Section 607 and prior to a finding of the clerk or Secretary of State that no alterations are required in the form of the recall petition pursuant to Section 27031.5.

SEC. 19. Section 27211 of the Elections Code is amended to read:

27211. The number of qualified signatures required in order to qualify a recall for the ballot shall be as follows:

(a) In the case of an officer of a city, county, school district, community college district, county board of education, or resident voting district, the number of signatures shall be equal in number to not less than the following percent of the registered voters in the electoral jurisdiction:

(1) Thirty percent if the registration is less than 1,000.

(2) Twenty-five percent if the registration is less than 10,000 but at least 1,000.

(3) Twenty percent if the registration is less than 50,000 but at least 10,000.

(4) Fifteen percent if the registration is less than 100,000 but at least 50,000.

(5) Ten percent if the registration is 100,000 or above.

The number of registered voters shall be calculated as of the time of the last report of registration by the county clerk to the Secretary of State pursuant to Section 607, and prior to the finding by the clerk or Secretary of State that no alterations are required in the form of the recall petition pursuant to Section 27031.5.

(b) In the case of a state officer, including judges of courts of appeal and trial courts, the number of signatures shall be as provided for in subdivision (b) of Section 14 of Article II of the California Constitution. In the case of a judge of a superior, municipal, or justice court, which office has never appeared on the ballot since its creation, or did not appear on the ballot at its last election pursuant to Section 25304, the number of signatures shall be as provided in subdivision (b) of Section 14 of Article II of the California Constitution except that the percent shall be based on the number of votes cast within the judicial jurisdiction for the countywide office which had the least number of votes in the most recent general election in the county in which the judge holds his or her office.

(c) In the case of a landowner voting district, signatures of voters owning at least 10 percent of the assessed value of land within the electoral jurisdiction of the officer sought to be recalled.

SEC. 20. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates

Claims Fund.

CHAPTER 916

An act to add Sections 1033.7, 1042, 3710, 3774.5, 3942, 5229, 5285.5, 5374.5, and 5378.5 to, and to repeal Section 5380 of, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. This act shall be known and may be cited as the Public Utilities Commission Enforcement Act of 1988.

SEC. 2. (a) The Legislature finds and declares that it is the policy of this state to achieve increasing levels of safety of operation in the performance of transportation services by carriers using the highways of this state for the transportation of persons and property for compensation.

(b) It is the intent of the Legislature, in enacting this act, to confirm that the Department of the California Highway Patrol has primary authority to regulate safety of operations of carriers of persons and property for compensation and that the Public Utilities Commission cooperate fully with the department in ensuring the safe operation of these carriers.

SEC. 3. Section 1033.7 is added to the Public Utilities Code, to read:

1033.7. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate of a passenger stage corporation be suspended for consistent failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, the commission shall, pending a hearing in the matter pursuant to subdivision (c), suspend the corporation's certificate. The department's written recommendation shall be made under oath, and shall specifically indicate compliance with subdivision (b). The department's written recommendation shall include a statement that the corporation's continued operation presents an immediate danger to the safety of the public and of its employees. The commission shall reinstate the corporation's certificate suspended under this subdivision promptly upon receipt of a written recommendation from the department that the corporation's safety compliance has improved to the satisfaction of the department, unless the certificate is suspended for another reason. A corporation whose certificate has been suspended may request that the department reinspect its terminal and vehicles.

Upon receipt of a request, the department shall perform a reinspection within a reasonable time.

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the passenger stage corporation in writing of all of the following:

(1) That the department has determined that the corporation's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the corporation's certificate by the commission.

(3) That the corporation may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the corporation, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission suspends the certificate of any passenger stage corporation pursuant to subdivision (a), the commission shall furnish the corporation written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the corporation shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this part, terminate the suspension, continue the suspension in effect, or revoke the certificate.

SEC. 4. Section 1042 is added to the Public Utilities Code, to read:

1042. (a) Every passenger stage corporation shall furnish the commission annually, as specified by the commission, a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year. The commission shall furnish a copy of this list to the Department of the California Highway Patrol and to the corporation's insurer, if the corporation's accident liability protection is provided by a policy or policies of insurance.

(b) If the passenger stage corporation's insurer informs the commission that the corporation has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this part, for a first occurrence, suspend the corporation's certificate or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the certificate or impose a fine, or both.

SEC. 5. Section 3710 is added to the Public Utilities Code, to read:

3710. (a) Every highway permit carrier shall furnish the commission annually, as specified by the commission, a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year. The commission shall furnish a copy of

this list to the Department of the California Highway Patrol and to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the highway permit carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this chapter, for a first occurrence, suspend the carrier's permit or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the permit or impose a fine, or both.

SEC. 6. Section 3774.5 is added to the Public Utilities Code, to read:

3774.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a highway permit carrier be suspended for consistent failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, the commission shall, pending a hearing in the matter pursuant to subdivision (c), suspend the carrier's permit. The written recommendation shall be made under oath, and shall specifically indicate compliance with subdivision (b). The department's written recommendation shall include a statement that the carrier's continued operation presents an immediate danger to the safety of the public and of its employees. The commission shall reinstate the carrier's permit suspended under this subdivision promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason. A carrier whose permit has been suspended may request that the department reinspect its terminal and vehicles. Upon receipt of a request, the department shall perform a reinspection within a reasonable time.

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the highway permit carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission suspends the permit of any

highway permit carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other applicable penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit.

SEC. 7. Section 3942 is added to the Public Utilities Code, to read:

3942. The commission shall assist the Department of the California Highway Patrol in the removal from service of any vehicle of any highway carrier which the carrier has failed or refused to register with the commission pursuant to this chapter. In this connection, the commission may direct employees of the commission to be in attendance at weigh stations and highway checkpoints, if requested by the department, and furnish commission records and information related to highway carriers for the purpose of ascertaining the status of a highway carrier's registration.

SEC. 8. Section 5229 is added to the Public Utilities Code, to read:

5229. (a) Every household goods carrier shall furnish the commission annually, as specified by the commission, a list, prepared under oath, of all vehicles used in transportation for compensation during the preceding year. The commission shall furnish a copy of this list to the Department of the California Highway Patrol and to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the household goods carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any other applicable penalty provided in this chapter, for a first occurrence, suspend the carrier's permit or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the permit or impose a fine, or both.

SEC. 9. Section 5285.5 is added to the Public Utilities Code, to read:

5285.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the permit of a household goods carrier be suspended for consistent failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, the commission shall suspend the carrier's permit. The written recommendation shall be made under oath, and shall specifically indicate compliance with subdivision (b). The department's written recommendation shall include a statement that the carrier's continued operation presents an immediate danger to the safety of the public and of its employees.

The commission shall reinstate the carrier's permit suspended under this subdivision promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the permit is suspended for another reason. A carrier whose permit has been suspended may request that the department reinspect its terminal and vehicles. Upon receipt of a request, the department shall perform a reinspection within a reasonable time.

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the household goods carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in a suspension or revocation of the carrier's permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission suspends the permit of any household goods carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the permit.

SEC. 10. Section 5374.5 is added to the Public Utilities Code, to read:

5374.5. (a) At the time of each bus terminal inspection conducted by the Department of the California Highway Patrol pursuant to subdivision (c) of Section 34501 of the Vehicle Code, every charter-party carrier of passengers shall furnish both the Department of the California Highway Patrol and the commission a list, prepared under oath, of all vehicles used in transportation for compensation during the period since the last inspection. The commission shall furnish a copy of the list to the carrier's insurer, if the carrier's accident liability protection is provided by a policy of insurance.

(b) If the charter-party carrier's insurer informs the commission that the carrier has failed to obtain insurance coverage for any vehicle reported on the list, the commission may, in addition to any

other penalty provided in this chapter, for a first occurrence, suspend the carrier's certificate or permit or impose a fine, or both, and for a second or subsequent occurrence may suspend or revoke the certificate or impose a fine, or both.

SEC. 11. Section 5378.5 is added to the Public Utilities Code, to read:

5378.5. (a) Upon receipt of a written recommendation from the Department of the California Highway Patrol that the certificate or permit of a charter-party carrier be suspended for consistent failure to maintain any vehicle used in transportation for compensation in a safe operating condition or to comply with the Vehicle Code or with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety, the commission shall suspend the carrier's certificate or permit. The written recommendation shall be made under oath, and shall specifically indicate compliance with subdivision (b). The department's written recommendation shall include a statement that the carrier's continued operation presents an immediate danger to the safety of the public and of its employees. The commission shall reinstate the carrier's certificate or permit suspended under this subdivision promptly upon receipt of a written recommendation from the department that the carrier's safety compliance has improved to the satisfaction of the department, unless the certificate or permit is suspended for another reason. A carrier whose certificate or permit has been suspended may request that the department reinspect its terminal and vehicles. Upon receipt of a request, the department shall perform a reinspection within a reasonable time.

(b) Before transmitting a recommendation pursuant to subdivision (a) to the commission, the Department of the California Highway Patrol shall notify the charter-party carrier in writing of all of the following:

(1) That the department has determined that the carrier's safety record is unsatisfactory, furnishing a copy of any documentation or summary of any other evidence supporting the determination.

(2) That the determination may result in suspension or revocation of the carrier's certificate or permit by the commission.

(3) That the carrier may request a review of the determination by the department within five days of its receipt of the notice required under this subdivision. If a review pursuant to this paragraph is requested by the carrier, the department shall conduct and evaluate that review prior to transmitting any notification to the commission pursuant to subdivision (a).

(c) Whenever the commission suspends the certificate or permit of any charter-party carrier pursuant to subdivision (a), the commission shall furnish the carrier written notice of the suspension and shall hold a hearing within a reasonable time, not to exceed 21 days after a written request therefor is filed with the commission, with a copy thereof furnished to the Department of the California Highway Patrol. At the hearing, the carrier shall show cause why the

suspension should not be continued. At the conclusion of the hearing, the commission may, in addition to any other penalty provided in this chapter, terminate the suspension, continue the suspension in effect, or revoke the certificate or permit.

SEC. 12. Section 5380 of the Public Utilities Code is repealed.

SEC. 13. The commission shall immediately investigate every business listed in every classified directory of telephone subscribers as furnishing limousine-for-hire or passenger charter transportation service for compensation in motor vehicles. Pursuant to this investigation, the commission shall do all of the following:

(a) Determine which businesses, if any, are required to have in effect a passenger charter-party carrier certificate or permit pursuant to Section 5371 of the Public Utilities Code but do not have the required certificate or permit.

(b) Inform any business not having a required certificate or permit that it is in violation of law.

(c) Within 60 days of informing the business pursuant to subdivision (b), institute civil or criminal proceedings, or both, pursuant to Article 6 (commencing with Section 5411) of Chapter 8 of Division 2 of the Public Utilities Code or any other applicable law.

SEC. 14. The sum of forty-five thousand dollars ($45,000) is hereby appropriated to the Public Utilities Commission for purposes of this act, including, but not limited to, the establishment of three clerical positions for the processing of lists of carrier vehicles used in transportation for compensation pursuant to Sections 1042, 3710, 5229, and 5374.5 of the Public Utilities Code, as follows:

(a) Sixteen thousand dollars ($16,000) from the Public Utilities Commission Transportation Reimbursement Account in the General Fund.

(b) Twenty-nine thousand dollars ($29,000) from the Transportation Rate Fund.

CHAPTER 917

An act to amend Section 11225 of the Penal Code, relating to nuisance.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 11225 of the Penal Code is amended to read:

11225. (a) Every building or place used for the purpose of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, and every building or place in or upon which acts of illegal gambling as defined by state law or local ordinance, lewdness, assignation, or prostitution, are held or occur,

is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

Nothing in this subdivision shall be construed to apply the definition of a nuisance to a private residence where illegal gambling is conducted on an intermittent basis and without the purpose of producing profit for the owner or occupier of the premises.

(b) Every building or place used as a bathhouse which as a primary activity encourages or permits conduct that according to the guidelines of the federal Centers for Disease Control can transmit AIDS, including, but not limited to, anal intercourse, oral copulation, or vaginal intercourse, is a nuisance which shall be enjoined, abated, and prevented, and for which damages may be recovered, whether it is a public or private nuisance.

For purposes of this subdivision, a "bathhouse" means a business which, as its primary purpose, provides facilities for a spa, whirlpool, communal bath, sauna, steam bath, mineral bath, mud bath, or facilities for swimming.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 918

An act to amend Sections 4141, 4350.5, 4367, and 4368 of the Business and Professions Code, and to amend Sections 11153.5 and 11209 of the Health and Safety Code, relating to pharmacy.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 4141 of the Business and Professions Code is amended to read:

4141. (a) A certificate, license, permit, registration, or exemption issued pursuant to Section 4080, 4084, or 4084.6 shall be considered a permit within the meaning of Section 4140.

(b) The board may, in its discretion, issue a permit to any person authorizing the sale and dispensing of hypodermic syringes and needles for use for animals and poultry.

(c) The application for a permit shall be made in writing on a form to be furnished by the board. The board may require such information as the board deems reasonably necessary to carry out the purposes of this article.

(d) A separate permit shall be required for each of the premises of any person who sells or dispenses hypodermic syringes or needles at more than one location.

(e) A permit shall be renewed annually, on or before January 1 of each year and shall not be transferable.

(f) The board may deny, revoke, or suspend any permit issued pursuant to the provisions of this article for any violation of this chapter.

SEC. 2. Section 4350.5 of the Business and Professions Code is amended to read:

4350.5. The board shall take action against any holder of a certificate, license, permit, registration or exemption, who is guilty of unprofessional conduct which has been brought to its attention, or whose certificate, license, permit, registration or exemption has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, the violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board. Unprofessional conduct shall also include, but is not limited to, the following:

(a) Gross immorality.

(b) Incompetence.

(c) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(d) Gross negligence.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 or subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive for purposes of subdivision (a) of Section 11153.5 of the Health and Safety Code shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(f) Actions or conduct which would have warranted denial of a certificate, license, permit, registration or exemption.

SEC. 3. Section 4367 of the Business and Professions Code is amended to read:

4367. Any person who has been denied a license, permit, or registration, or whose license, permit, or registration has been revoked or is under suspension, or who has failed to renew his or her license, permit, or registration while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, or partner of any partnership, corporation, firm, or

association whose application for a license, permit, or registration has been denied or revoked, is under suspension or has been placed on probation, and while acting as such manager, administrator, owner, member, officer, director, associate, or partner had knowledge of or knowingly participated in any conduct for which the license, permit, or registration was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee, permittee, or registrant. Where a probationary license, permit, or registrant is issued or where an existing license, permit, or registration is placed on probation, this prohibition shall remain in effect for a period not to exceed five years. Where the license, permit, or registration is denied or revoked, the prohibition shall continue until the license, permit, or registration is issued or reinstated.

SEC. 4. Section 4368 of the Business and Professions Code is amended to read:

4368. Whenever a person is prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee, permittee, or registrant as provided for by Section 4367, the board shall, in each case where it has such information, notify in writing each licensee, permittee, or registrant for whom the person is a manager, administrator, owner, member, officer, director, associate, or partner of the prohibition. The board shall send the notification to the licensee, permittee, or registrant's address of record. The licensee, permittee, or registrant shall have 30 days from the date that the notice is sent to remove and replace the prohibited person and, where appropriate, file a change of permit to reflect that change. Failure to file a change of permit within the 30-day period shall constitute grounds for disciplinary action.

SEC. 5. Section 11153.5 of the Health and Safety Code is amended to read:

11153.5. (a) No wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, shall furnish controlled substances for other than legitimate medical purposes.

(b) Anyone who violates this section knowing, or having a conscious disregard for the fact, that the controlled substances are for other than a legitimate medical purpose shall be punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both a fine and imprisonment.

(c) Factors to be considered in determining whether a wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, furnished controlled substances knowing or having a conscious disregard for the fact that the controlled substances are for other than legitimate medical purposes shall include, but not be limited to, whether the use of controlled substances was for purposes of increasing athletic ability or performance, the amount of controlled substances furnished, the previous ordering pattern of the

customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes the product.

SEC. 6. Section 11209 of the Health and Safety Code is amended to read:

11209. (a) No person shall deliver Schedule II, III, or IV controlled substances to a pharmacy or pharmacy receiving area, nor shall any person receive controlled substances on behalf of a pharmacy unless, at the time of delivery, a pharmacist or authorized receiving personnel signs a receipt showing the type and quantity of the controlled substances received. Any discrepancy between the receipt and the type or quantity of controlled substances actually received shall be reported to the delivering wholesaler or manufacturer by the next business day after delivery to the pharmacy.

(b) The delivery receipt and any record of discrepancy shall be maintained by the wholesaler or manufacturer for a period of three years.

(c) A violation of this section is a misdemeanor.

(d) Nothing in this section shall require a common carrier to label a package containing controlled substances in a manner contrary to federal law or regulation.

CHAPTER 919

An act to amend Sections 109, 317, 401, 510, 1101, 1311, 1312, 2007, 2304, 9915, and 13402 of, and to add Sections 203.5 and 1202 to, the Corporations Code, relating to corporations.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. Section 109 of the Corporations Code is amended to read:

109. (a) Any agreement, certificate or other instrument relating to a domestic or foreign corporation filed pursuant to this division may be corrected with respect to any misstatement of fact contained therein, any defect in the execution thereof or any other error or defect contained therein, by filing a certificate of correction entitled "Certificate of Correction of _____ (insert here the title of the agreement, certificate or other instrument to be corrected and name(s) of corporation or corporations)"; provided, however, that no such certificate of correction shall alter the wording of any resolution or written consent which was in fact adopted by the board or the shareholders or effect a corrected amendment of articles which amendment as so corrected would not in all respects have

complied with the requirements of this division at the time of filing of the agreement, certificate, or other instrument being corrected.

(b) If the certificate of correction corrects original articles, the certificate of correction shall be either an officers' certificate or a certificate signed and verified by the incorporators, or a majority of them. If the certificate of correction corrects an agreement of merger or an officers' certificate accompanying an agreement of merger, the certificate of correction shall be an officers' certificate of the surviving corporation only. In all other instances, the certificate of correction shall be either an officer's certificate or a certificate signed and verified as provided in this division with respect to the agreement, certificate or other instrument being corrected.

(c) A certificate of correction shall set forth the following:

(1) The name or names of the corporation or corporations.

(2) The date the agreement, certificate or other instrument being corrected was filed.

(3) The provision in the agreement, certificate or other instrument as corrected and, if the execution was defective, wherein it was defective.

(4) If applicable, that the certificate does not alter the wording of any resolution or written consent which was in fact adopted by the board or the shareholders.

(d) A provision of the articles, amended articles, restated articles, or certificate of determination being corrected by a certificate of correction shall be identified in the certificate of correction in accordance with subdivision (a) of Section 907.

(e) The filing of the certificate of correction shall not alter the effective time of the agreement, certificate or instrument being corrected, which shall remain as its original effective time, and such filing shall not affect any right or liability accrued or incurred before such filing, except that any right or liability accrued or incurred by reason of the error or defect being corrected shall be extinguished by such filing if the person having that right has not detrimentally relied on the original instrument.

SEC. 2. Section 203.5 is added to the Corporations Code, to read:

203.5. (a) If the articles include the designation and number of shares of one or more series within a class, the stated number of shares for all series within the class shall not exceed, and may be less than, the stated number of shares for the class.

(b) If so authorized in the articles and if the articles state the number of shares of the class, the articles may be amended by approval of the board alone to increase or decrease (but not below the number of shares of the series then outstanding) the number of shares of a series.

(c) If the articles authorize a class of shares which is stated to be issuable in series, the articles shall include either the designation and number of shares for at least one series within that class or an authorization of common shares.

SEC. 3. Section 317 of the Corporations Code is amended to read:

317. (a) For the purposes of this section, "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of the predecessor corporation; "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation attorneys' fees and any expenses of establishing a right to indemnification under subdivision (d) or paragraph (4) of subdivision (e).

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the corporation to procure a judgment in its favor) by reason of the fact that the person is or was an agent of the corporation, against expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with the proceeding if that person acted in good faith and in a manner the person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had no reasonable cause to believe the conduct of the person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

(c) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action by or in the right of the corporation to procure a judgment in its favor by reason of the fact that the person is or was an agent of the corporation, against expenses actually and reasonably incurred by that person in connection with the defense or settlement of the action if the person acted in good faith, in a manner the person believed to be in the best interests of the corporation and its shareholders.

No indemnification shall be made under this subdivision for any of the following:

(1) In respect of any claim, issue or matter as to which the person shall have been adjudged to be liable to the corporation in the performance of that person's duty to the corporation and its shareholders, unless and only to the extent that the court in which the proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, the person is fairly

and reasonably entitled to indemnity for expenses and then only to the extent that the court shall determine.

(2) Of amounts paid in settling or otherwise disposing of a pending action without court approval.

(3) Of expenses incurred in defending a pending action which is settled or otherwise disposed of without court approval.

(d) To the extent that an agent of a corporation has been successful on the merits in defense of any proceeding referred to in subdivision (b) or (c) or in defense of any claim, issue, or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

(e) Except as provided in subdivision (d), any indemnification under this section shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in subdivision (b) or (c), by any of the following:

(1) A majority vote of a quorum consisting of directors who are not parties to such proceeding.

(2) If such a quorum of directors is not obtainable, by independent legal counsel in a written opinion.

(3) Approval of the shareholders (Section 153), with the shares owned by the person to be indemnified not being entitled to vote thereon.

(4) The court in which the proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not the application by the agent, attorney or other person is opposed by the corporation.

(f) Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of the proceeding upon receipt of an undertaking by or on behalf of the agent to repay that amount if it shall be determined ultimately that the agent is not entitled to be indemnified as authorized in this section.

(g) The indemnification authorized by this section shall not be deemed exclusive of any additional rights to indemnification for breach of duty to the corporation and its shareholders while acting in the capacity of a director or officer of the corporation to the extent the additional rights to indemnification are authorized in an article provision adopted pursuant to paragraph (11) of subdivision (a) of Section 204. The indemnification provided by this section for acts, omissions, or transactions while acting in the capacity of, or while serving as, a director or officer of the corporation but not involving breach of duty to the corporation and its shareholders shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any bylaw, agreement, vote of shareholders or disinterested directors, or otherwise, to the extent the additional rights to indemnification are authorized in the articles

of the corporation. An article provision authorizing indemnification "in excess of that otherwise permitted by Section 317" or "to the fullest extent permissible under California law" or the substantial equivalent thereof shall be construed to be both a provision for additional indemnification for breach of duty to the corporation and its shareholders as referred to in, and with the limitations required by, paragraph (11) of subdivision (a) of Section 204 and a provision for additional indemnification as referred to in the second sentence of this subdivision. The rights to indemnity hereunder shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person. Nothing contained in this section shall affect any right to indemnification to which persons other than the directors and officers may be entitled by contract or otherwise.

(h) No indemnification or advance shall be made under this section, except as provided in subdivision (d) or paragraph (4) of subdivision (e), in any circumstance where it appears:

(1) That it would be inconsistent with a provision of the articles, bylaws, a resolution of the shareholders, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification.

(2) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

(i) A corporation shall have power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in that capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against that liability under this section. The fact that a corporation owns all or a portion of the shares of the company issuing a policy of insurance shall not render this subdivision inapplicable if either of the following conditions are satisfied: (1) if the articles authorize indemnification in excess of that authorized in this section and the insurance provided by this subdivision is limited as indemnification is required to be limited by paragraph (11) of subdivision (a) of Section 204; or (2) (A) the company issuing the insurance policy is organized, licensed, and operated in a manner that complies with the insurance laws and regulations applicable to its jurisdiction of organization, (B) the company issuing the policy provides procedures for processing claims that do not permit that company to be subject to the direct control of the corporation that purchased that policy, and (C) the policy issued provides for some manner of risk sharing between the issuer and purchaser of the policy, on one hand, and some unaffiliated person or persons, on the other, such as by providing for more than one unaffiliated owner of the company issuing the policy or by providing that a portion of the coverage furnished will be obtained from some unaffiliated insurer or reinsurer.

(j) This section does not apply to any proceeding against any

trustee, investment manager, or other fiduciary of an employee benefit plan in that person's capacity as such, even though the person may also be an agent as defined in subdivision (a) of the employer corporation. A corporation shall have power to indemnify such a trustee, investment manager, or other fiduciary to the extent permitted by subdivision (f) of Section 207.

SEC. 4. Section 401 of the Corporations Code is amended to read:

401. (a) Before any corporation issues any shares of any class or series of which the rights, preferences, privileges, and restrictions, or any of them, or the number of shares constituting any series or the designation of the series, are not set forth in its articles but are fixed in a resolution adopted by the board pursuant to authority given by its articles, an officers' certificate setting forth a copy of the resolution, the number of shares of the class or series and that none of the shares of the class or series has been issued shall be executed and filed.

(b) After any certificate of determination has been filed, but before the corporation issues any shares of the class or series covered thereby, the board may alter or revoke any right, preference, privilege, or restriction fixed or determined by the resolution set forth therein by the adoption of another resolution appropriate for that purpose and the execution and filing of an officers' certificate setting forth a copy of the resolution, and stating that none of the shares of the class or the series affected has been issued.

(c) After any certificate of determination has been filed, the board may, if authorized in the articles pursuant to subdivision (e) of Section 202, increase or decrease the number of shares constituting any series, by the adoption of another resolution appropriate for that purpose and the execution and filing of an officers' certificate setting forth a copy of the resolution, the number of shares of the series then outstanding and the increase or decrease in the number of shares constituting the series. If any such certificate of determination has been incorporated in restated articles filed pursuant to Section 910, the action authorized by this subdivision may, notwithstanding Section 902, be accomplished by an amendment of the articles approved by the board alone.

(d) After shares of a class or series have been issued, the provisions of the resolution set forth in a certificate of determination may be amended only by the adoption and approval of an amendment in accordance with Section 902, 903, or 904 and the filing of a certificate of amendment in accordance with Sections 905 and 908. Notwithstanding the preceding sentence, a certificate to increase or decrease the number of shares of a series also may be filed as permitted by subdivision (c).

(e) A provision in a certificate of determination being amended pursuant to subdivision (b), (c), or (d) shall be identified in the amendment in accordance with subdivision (a) of Section 907.

(f) If a certificate is filed pursuant to subdivision (c) to decrease the number of shares of a series to zero, the certificate of

determination whereby the series was established is thereupon no longer in force and the series is no longer an authorized series of the corporation.

SEC. 5. Section 510 of the Corporations Code is amended to read:

510. (a) When a corporation purchases, redeems, acquires by way of conversion to another class or series, or otherwise acquires its own shares, those shares are restored to the status of authorized but unissued shares, unless the articles prohibit the reissuance thereof.

(b) If the articles prohibit the reissue of shares upon acquisition thereof by the corporation, then upon the acquisition the authorized number of shares of the class and series, if any, to which the shares belonged is reduced by the number of shares so acquired. Thereupon the articles shall be amended to reflect the reduction in authorized shares and, if all of the authorized shares of any class or series are acquired and their reissue is prohibited by the articles, then the articles shall also be amended to eliminate therefrom any statement of rights, preferences, privileges, and restrictions relating solely to the class or series. A certificate of amendment shall be filed in accordance with the requirements of Chapter 9 (commencing with Section 900), except that approval by the outstanding shares (Section 152) shall not be required to adopt any such amendment.

SEC. 6. Section 1101 of the Corporations Code is amended to read:

1101. The board of each corporation which desires to merge shall approve an agreement of merger. The constituent corporations shall be parties to the agreement of merger and other persons, including a parent party corporation (Section 1200), may be parties to the agreement of merger. The agreement shall state all of the following:

(a) The terms and conditions of the merger.

(b) The amendments, subject to Sections 900 and 907, to the articles of the surviving corporation to be effected by the merger, if any; if any amendment changes the name of the surviving corporation the new name may be the same as or similar to the name of a disappearing domestic or foreign corporation, subject to subdivision (b) of Section 201.

(c) The name and place of incorporation of each constituent corporation and which of the constituent corporations is the surviving corporation.

(d) The manner of converting the shares of each of the constituent corporations into shares or other securities of the surviving corporation and, if any shares of any of the constituent corporations are not to be converted solely into shares or other securities of the surviving corporation, the cash, property, rights, or securities of any corporation which the holders of those shares are to receive in exchange for the shares, which cash, property, rights, or securities of any corporation may be in addition to or in lieu of shares or other securities of the surviving corporation, or that the shares are canceled without consideration.

(e) Such other details or provisions as are desired, if any,

including, without limitation, a provision for the payment of cash in lieu of fractional shares or for any other arrangement with respect thereto consistent with the provisions of Section 407.

Each share of the same class or series of any constituent corporation (other than the cancellation of shares held by a constituent corporation or its parent or a wholly owned subsidiary of either in another constituent corporation) shall, unless all shareholders of the class or series consent and except as provided in Section 407, be treated equally with respect to any distribution of cash, property, rights or securities. Notwithstanding subdivision (d), except in a short-form merger, and in the merger of a corporation into its subsidiary in which it owns at least 90 percent of the outstanding shares of each class, the nonredeemable common shares of a constituent corporation may be converted only into nonredeemable common shares of the surviving corporation or a parent party if a constituent corporation or its parent owns, directly or indirectly, shares of another constituent corporation representing more than 50 percent of the voting power of the other constituent corporation prior to the merger, unless all of the shareholders of the class consent and except as provided in Section 407.

SEC. 7. Section 1202 is added to the Corporations Code, to read:

1202. (a) In addition to the requirements of Section 1201, the principal terms of a merger reorganization shall be approved by all the outstanding shares of a corporation if the agreement of merger provides that all the outstanding shares of that corporation are canceled without consideration in the merger.

(b) In addition to the requirements of Section 1201, if the terms of a merger reorganization or sale-of-assets reorganization provide that a class or series of preferred shares is to have distributed to it a lesser amount than would be required by applicable article provisions, the principal terms of the reorganization shall be approved by the same percentage of outstanding shares of that class or series which would be required to approve an amendment of the article provisions to provide for the distribution of that lesser amount.

(c) If a parent party within the meaning of Section 1200 is a foreign corporation (other than a foreign corporation to which subdivision (a) of Section 2115 is applicable), any requirement or lack of a requirement for approval by the outstanding shares of the foreign corporation shall be based, not on the application of Sections 1200 and 1201, but on the application of the laws of the state or place of incorporation of the foreign corporation.

SEC. 8. Section 1311 of the Corporations Code is amended to read:

1311. This chapter, except Section 1312, does not apply to classes of shares whose terms and provisions specifically set forth the amount to be paid in respect to such shares in the event of a reorganization or merger.

SEC. 9. Section 1312 of the Corporations Code is amended to

read:

1312. (a) No shareholder of a corporation who has a right under this chapter to demand payment of cash for the shares held by the shareholder shall have any right at law or in equity to attack the validity of the reorganization or short-form merger, or to have the reorganization or short-form merger set aside or rescinded, except in an action to test whether the number of shares required to authorize or approve the reorganization have been legally voted in favor thereof; but any holder of shares of a class whose terms and provisions specifically set forth the amount to be paid in respect to them in the event of a reorganization or short-form merger is entitled to payment in accordance with those terms and provisions or, if the principal terms of the reorganization are approved pursuant to subdivision (b) of Section 1202, is entitled to payment in accordance with the terms and provisions of the approved reorganization.

(b) If one of the parties to a reorganization or short-form merger is directly or indirectly controlled by, or under common control with, another party to the reorganization or short-form merger, subdivision (a) shall not apply to any shareholder of such party who has not demanded payment of cash for such shareholder's shares pursuant to this chapter; but if the shareholder institutes any action to attack the validity of the reorganization or short-form merger or to have the reorganization or short-form merger set aside or rescinded, the shareholder shall not thereafter have any right to demand payment of cash for the shareholder's shares pursuant to this chapter. The court in any action attacking the validity of the reorganization or short-form merger or to have the reorganization or short-form merger set aside or rescinded shall not restrain or enjoin the consummation of the transaction except upon 10 days' prior notice to the corporation and upon a determination by the court that clearly no other remedy will adequately protect the complaining shareholder or the class of shareholders of which such shareholder is a member.

(c) If one of the parties to a reorganization or short-form merger is directly or indirectly controlled by, or under common control with, another party to the reorganization or short-form merger, in any action to attack the validity of the reorganization or short-form merger or to have the reorganization or short-form merger set aside or rescinded, (1) a party to a reorganization or short-form merger which controls another party to the reorganization or short-form merger shall have the burden of proving that the transaction is just and reasonable as to the shareholders of the controlled party, and (2) a person who controls two or more parties to a reorganization shall have the burden of proving that the transaction is just and reasonable as to the shareholders of any party so controlled.

SEC. 10. Section 2007 of the Corporations Code is amended to read:

2007. (a) If the corporation in process of winding up has both

preferred and common shares outstanding, a plan of distribution of the shares, obligations or securities of any other corporation, domestic or foreign, or assets other than money which is not in accordance with the liquidation rights of the preferred shares as specified in the articles may nevertheless be adopted if approved by (1) the board and (2) by approval of the outstanding shares (Section 152) of each class. The plan may provide that such distribution is in complete or partial satisfaction of the rights of any of such shareholders upon distribution and liquidation of the assets.

(b) A plan of distribution so approved shall be binding upon all the shareholders except as provided in subdivision (c). The board shall cause notice of the adoption of the plan to be given by mail within 20 days after its adoption to all holders of shares having a liquidation preference.

(c) Shareholders having a liquidation preference who dissent from the plan of distribution are entitled to be paid the amount of their liquidation preference in cash if they file written demand for payment with the corporation within 30 days after the date of mailing of the notice of the adoption of the plan of distribution, unless the plan of distribution is abandoned. The demand shall state the number and class of the shares held of record by the shareholder in respect of which the shareholder claims payment.

(d) If any such demand for cash payment is filed, the board in its discretion may abandon the plan without further approval by the outstanding shares (Section 152), and all shareholders shall then be entitled to distribution according to their rights and liquidation preferences in the process of winding up.

(e) This section shall not apply to a distribution in accordance with a reorganization the principal terms of which have been approved pursuant to subdivision (b) of Section 1202.

SEC. 11. Section 2304 of the Corporations Code is amended to read:

2304. The effect of a difference between the articles and bylaws in the statement of the number of directors shall not be governed by subdivision (a) of Section 212 of the new law for a corporation existing on the effective date, which shall continue to be governed by the prior law, unless and until an amendment of its articles is filed pursuant to Section 2302. If such amendment makes any change in the number of directors or the maximum or minimum number of directors or makes a change from a fixed to a variable board or vice versa, it shall also be approved by the outstanding shares (Section 152).

SEC. 12. Section 9915 of the Corporations Code is amended to read:

9915. (a) Subdivision (a) of Section 5151 of the new public benefit corporation law does not apply to subject corporations governed by the public benefit corporation law, subdivision (a) of Section 7151 of the new mutual benefit corporation law does not apply to subject corporations governed by the mutual benefit

corporation law, and subdivision (a) of Section 9151 of the new religious corporation law does not apply to subject corporations governed by the religious corporation law, but those corporations shall continue to be governed by the prior nonprofit law unless and until an amendment of the articles is filed pursuant to Section 9913. If an amendment makes any change in the number of directors or the maximum or minimum number of directors or makes change from a fixed to a variable board or vice versa, it shall also be approved by the members (Section 5034).

(b) Notwithstanding subdivision (a), the new public benefit corporation law, the new mutual benefit corporation law, or the new religious corporation law, as appropriate, rather than the provisions of the prior nonprofit law apply with the respect to determining the limits on the number of directors.

SEC. 13. Section 13402 of the Corporations Code is amended to read:

13402. (a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.

(b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

CHAPTER 920

An act to amend Sections 25208.4 and 25208.5 of, and to add and repeal Section 25208.18 of, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Federal, state, and local agencies are conducting general

research and specific studies directed at agricultural drainage water surface impoundments and the proper method of operation to prevent adverse impacts to the environment.

(b) In order to better understand the character of agricultural drainage water, its behavior in surface impoundments, and the manner in which the discharge of this water should be regulated to prevent adverse environmental impacts, it is necessary that the California regional water quality control boards are given the authority to extend the deadlines imposed pursuant to the Toxic Pits Cleanup Act of 1984 (Article 9.5 (commencing with Section 25208) of Chapter 6.5 of Division 20 of the Health and Safety Code).

SEC. 2. Section 25208.4 of the Health and Safety Code, as amended by Section 2 of Chapter 1366 of the Statutes of 1985, is amended to read:

25208.4. (a) Notwithstanding any other provision of law, unless granted an exemption pursuant to subdivision (b) or Section 25208.13 or 25208.18, a person shall not discharge liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment after June 30, 1988, if the surface impoundment, or the land immediately beneath it, contains hazardous wastes and is within one-half mile upgradient from a potential source of drinking water.

A person who owns a surface impoundment which meets the conditions specified in this subdivision shall close the impoundment.

(b) A person may apply to a regional board to exempt a surface impoundment from subdivision (a) pursuant to this subdivision. A person shall submit the application for exemption to the regional board on or before January 1, 1986.

(1) A regional board shall either grant or deny an exemption from subdivision (a) on or before December 31, 1987. A regional board may grant an exemption from subdivision (a) only if the regional board makes both of the following findings:

(A) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(i) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(ii) Extremely hazardous wastes are not present in the surface impoundment, in the vadose zone, or in the waters of the state.

(B) The surface impoundment is in compliance with Section 25208.5, and a report has been filed pursuant to Section 25208.8.

(2) An exemption granted pursuant to this subdivision shall not be effective for more than five years. Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3. A regional board shall not renew the exemption unless the regional board makes both of the following findings:

(A) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state

in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state.

(B) Continuing the operation of the surface impoundment does not pose a significant potential of hazardous waste constituents migrating from the surface impoundment into the vadose zone or the waters of the state, thus polluting the vadose zone, or polluting, or threatening to pollute, these waters.

(3) Except as provided in paragraph (4), the regional board shall revoke an exemption granted pursuant to this subdivision and require the person granted the exemption to comply with subdivision (a) if the regional board determines that the surface impoundment granted the exemption is polluting, or threatening to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters. The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred.

(4) Notwithstanding paragraph (3), a regional board may continue in effect an exemption granted pursuant to this subdivision if the regional board orders the person to double line the surface impoundment, equip the surface impoundment with a leachate collection system, and conduct groundwater monitoring, as specified in subdivision (a) of Section 25208.5, within one year after granting this continuance, and if the regional board makes all of the following findings:

(A) The surface impoundment granted the exemption has hazardous waste constituents, in concentrations which threaten to pollute the waters of the state, which are migrating from the surface impoundment into the vadose zone, but no hazardous waste constituents have migrated into the waters of the state.

(B) Installing double liners and a leachate collection system and conducting groundwater monitoring, as specified in subdivision (a) of Section 25208.5, will abate the threat to the waters of the state before any hazardous waste constituents migrate to the waters.

(C) All removal and remedial actions necessary to abate the threat specified in subparagraph (A) can be completed prior to the migration of any hazardous waste constituents into the waters of the state.

(5) Notwithstanding paragraph (4), the regional board shall revoke the exemption continued pursuant to paragraph (4) and shall require the person granted this continuance to comply with subdivision (a) if the regional board determines either of the following:

(A) The surface impoundment is polluting the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in

concentrations which pollute, or threaten to pollute, these waters.

(B) The person does not comply with the board's order or conduct the necessary removal or remedial actions, as required by paragraph (4).

The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred, upon making either of these determinations.

(c) Notwithstanding any other provision of law, a person shall not do either of the following, unless the person is granted an exemption pursuant to Section 25208.13 or 25208.16, or unless the person is granted a variance for the discharge of a restricted hazardous waste pursuant to subdivision (d) by the department:

(1) On or after January 1, 1985, discharge restricted hazardous wastes containing cyanide wastes or polychlorinated biphenyls (PCBs), in the concentrations specified in paragraphs (1) and (4) of subdivision (a) of Section 25122.7, into a surface impoundment.

(2) On or after January 1, 1986, discharge any restricted hazardous waste, not otherwise specified in paragraph (1), into a surface impoundment.

(d) The department may grant a variance, in accordance with Section 66930 of Title 22 of the California Code of Regulations, except as specified in paragraph (2) of this subdivision, from the requirements of paragraph (2) of subdivision (c) for restricted hazardous wastes which do not contain cyanide wastes or polychlorinated biphenyls (PCBs), in the concentrations specified in paragraphs (1) and (4) of subdivision (a) of Section 25122.7, if the department determines the discharge is in compliance with the provisions of this article and that sufficient recycling or treatment capacity for a particular restricted hazardous waste stream or category of restricted hazardous waste is not available in this state.

(1) No variance shall be granted by the department unless the application is accompanied by a demonstration, satisfactory to the department, that the surface impoundment will be equipped, on or before January 1, 1986, and before the issuance of the variance, with double liners, a leachate collection system, and a groundwater monitoring program, as specified in subdivision (a) of Section 25208.5, and that the applicant has done one of the following:

(A) Entered into a binding commitment to, and has applied for all required permits to, construct, or to otherwise provide for, alternative treatment or recycling facilities.

(B) If the variance is for an onsite facility, the applicant is making changes in the operations of the onsite facility which will eliminate the discharge of the restricted hazardous waste stream or category of restricted hazardous waste into the surface impoundment.

(2) All applications for a variance pursuant to this subdivision shall be filed with the department on or before September 30, 1985.

(3) Any person applying for a variance shall, on or before January

1, 1986, do one of the following:

(A) Submit a hydrogeological assessment report to the regional board, as set forth in Section 25208.8.

(B) If the surface impoundment meets the conditions specified in subdivision (a), the applicant may apply for an exemption pursuant to subdivision (b).

(4) Notwithstanding any other provision of law, the regional board shall give the highest priority to acting upon any exemption application or hydrogeological assessment report filed pursuant to this subdivision. The regional board shall review the exemption application or the hydrogeological assessment report and shall approve or disapprove the report or exemption application within nine months after receiving the report or exemption application.

(5) Any person applying for a variance for a discharge pursuant to this subdivision shall make available to the department and to the regional board any records concerning the discharge which are relevant to the findings required to be made by the department or regional board pursuant to this subdivision.

(6) Notwithstanding subdivision (d) of Section 66930 of Title 22 of the California Code of Regulations, a variance issued pursuant to this subdivison shall become effective only when the variance is issued by the department, and the variance shall not be deemed issued if the department fails to issue a decision approving or denying the variance petition within the time specified in subdivision (d) of Section 66930 of Title 22 of the California Code of Regulations. The department may grant a variance only for a limited period of time, but for a period of no longer than one year. The variance shall include a date by which the generator or disposal facility receiving a variance shall construct recycling or treatment facilities or cease the discharge into the surface impoundment. The variance shall specify the date when the restricted hazardous waste stream or category of restricted hazardous waste shall be subject to the requirements specified in subdivision (c). The department may annually extend the variance of an individual applicant for an additional time, but not more than twice, if the applicant demonstrates to the department, and the department makes a written finding that, the applicant is making reasonable progress towards the reduction and final elimination of the discharge into the surface impoundment.

(7) The department shall, within 30 days after granting a variance pursuant to this subdivision, submit a copy of the variance to the appropriate regional board, to each Member of the Legislature in whose district is located the discharge to be exempted by the variance, to the Senate Committee on Toxics and Public Safety Management, and to the Assembly Committee on Environmental Safety and Toxic Materials.

(8) All variances granted pursuant to this subdivision are subject to review at the discretion of the department and may be revoked at any time. The department shall revoke a variance granted

pursuant to this subdivision if either the regional board or the department determines that the discharge of restricted hazardous wastes is polluting, or threatens to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters.

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

SEC. 3. Section 25208.4 of the Health and Safety Code, as amended by Section 3 of Chapter 1366 of the Statutes of 1985, is amended to read:

25208.4. (a) Notwithstanding any other provision of law, unless the person was granted an exemption pursuant to subdivision (b) on or before December 31, 1987, pursuant to Section 25208.4, as it read on December 31, 1988, or pursuant to Section 25208.13 or 25208.18, a person shall not discharge liquid hazardous wastes or hazardous wastes containing free liquids into a surface impoundment, if the surface impoundment, or the land immediately beneath it, contains hazardous wastes and is within one-half mile upgradient from a potential source of drinking water.

A person who owns a surface impoundment which meets the conditions specified in this subdivision shall close the impoundment.

(b) A person may apply to a regional board to exempt a surface impoundment from subdivision (a) pursuant to this subdivision. A person shall submit the application for exemption to the regional board on or before January 1, 1986.

(1) A regional board shall either grant or deny an exemption from subdivision (a) on or before December 31, 1987. A regional board may grant an exemption from subdivision (a) only if the regional board makes both of the following findings:

(A) No extremely hazardous wastes are currently being discharged into the surface impoundment, and either one of the following applies:

(i) The records of the person applying for an exemption indicate that no extremely hazardous wastes have been discharged into the surface impoundment.

(ii) Extremely hazardous wastes are not present in the surface impoundment, in the vadose zone, or in the waters of the state.

(B) The surface impoundment is in compliance with Section 25208.5, and a report has been filed pursuant to Section 25208.8.

(2) An exemption granted pursuant to this subdivision shall not be effective for more than five years. Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3. A regional board shall not renew the exemption unless the regional board makes both of the following findings.

(A) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state

in concentrations which pollute the vadose zone, or pollute, or threaten to pollute, the waters of the state.

(B) Continuing the operation of the surface impoundment does not pose a significant potential of hazardous waste constituents migrating from the surface impoundment into the vadose zone or the waters of the state, thus polluting the vadose zone, or polluting, or threatening to pollute, these waters.

(3) Except as provided in paragraph (4), the regional board shall revoke an exemption granted pursuant to this subdivision and require the person granted the exemption to comply with subdivision (a) if the regional board determines that the surface impoundment granted the exemption is polluting, or threatening to pollute, the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute these waters. The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred.

(4) Notwithstanding paragraph (3), a regional board may continue in effect an exemption granted pursuant to this subdivision if the regional board orders the person to double line the surface impoundment, equip the surface impoundment with a leachate collection system, and conduct groundwater monitoring, as specified in subdivision (a) of Section 25208.5, within one year after granting this continuance, and if the regional board makes all of the following findings:

(A) The surface impoundment granted the exemption has hazardous waste constituents, in concentrations which threaten to pollute the waters of the state, which are migrating from the surface impoundment into the vadose zone, but no hazardous waste constituents have migrated into the waters of the state.

(B) Installing double liners and a leachate collection system and conducting groundwater monitoring, as specified in subdivision (a) of Section 25208.5, will abate the threat to the waters of the state before any hazardous waste constituents migrate to the waters.

(C) All removal and remedial actions necessary to abate the threat specified in subparagraph (A) can be completed prior to the migration of any hazardous waste constituents into the waters of the state.

(5) Notwithstanding paragraph (4), the regional board shall revoke the exemption continued pursuant to paragraph (4) and shall require the person granted this continuance to comply with subdivision (a) if the regional board determines either of the following:

(A) The surface impoundment is polluting the waters of the state or that hazardous waste constituents are migrating from the surface impoundment into the vadose zone or the waters of the state in

concentrations which pollute, or threaten to pollute, these waters.

(B) The person does not comply with the board's order or conduct the necessary removal or remedial actions, as required by paragraph (4).

The regional board shall also issue a cease and desist order pursuant to Section 13301 of the Water Code and require appropriate removal and remedial actions by the person granted the exemption, or the responsible parties, to clean up any pollution which may have occurred, upon making either of these determinations.

(c) Notwithstanding any other provision of law, a person shall not discharge any restricted hazardous waste into a surface impoundment, unless the person is granted an exemption pursuant to Section 25208.13 or 25208.16.

(d) This section shall become operative on January 1, 1989.

SEC. 4. Section 25208.5 of the Health and Safety Code is amended to read:

25208.5. (a) Unless granted an exemption pursuant to subdivision (c) or Section 25208.13 or 25208.18, on or after January 1, 1989, no person shall discharge any liquid hazardous waste or hazardous wastes containing free liquids into a surface impoundment, unless the surface impoundment is double lined, as specified in subdivision (b), equipped with a leachate collection system, and groundwater monitoring is conducted, in accordance with the federal Resource Conservation and Recovery Act of 1976, the regulations and guidance documents adopted pursuant thereto, and the regulations adopted by the state board and the department.

(b) Until the regulations and guidance documents specified in subdivision (a) relating to double liners for surface impoundments go into effect, the requirement of installing double liners in subdivision (a) may be satisfied by installing a top liner which is designed, operated, and constructed of materials to prevent the migration of any constituents into the top liner during the period the facility remains in operation, including any postclosure monitoring period, and by installing a lower liner which is designed, operated, and constructed to prevent the migration of any constituents through the lower liner during the same period, and is constructed of at least a three-foot thick layer of recompacted clay or other natural materials which have a permeability of not more than 1×10^{-7} centimeter per second.

(c) A person may apply for an exemption from subdivision (a) for a surface impoundment for which construction had begun on or before July 1, 1984, and which was issued waste discharge requirements by filing an application with the regional board on or before January 1, 1986. The initial application for exemption shall include a completed hydrogeological assessment report which contains the accurate data and documentation specified in Section 25208.8. An application for renewal of an exemption shall include the report only if required by the regional board. If the regional board has not granted the exemption by June 30, 1988, the person shall then

comply with the requirements specified in subdivision (a), except that if the regional board denies the application for exemption but determines that a reasonable person would have applied for an exemption, the regional board may temporarily exempt the applicant from subdivision (a), for up to one year from the date of the denial of the exemption, for the sole purpose of bringing the surface impoundment into compliance with subdivision (a).

(d) The regional board may grant an exemption upon reviewing the application and making all of the following findings:

(1) The applicant has fully complied with subdivision (c).

(2) No hazardous waste constituents have migrated from the surface impoundment into the vadose zone or the waters of the state in concentrations which pollute or threaten to pollute the waters of the state.

(3) Continuing the operation of the surface impoundment without the requirements specified in subdivision (a) does not pose a significant potential of hazardous waste constituents migrating from the surface impoundments into the vadose zone or the waters of the state, in concentrations which pollute or threaten to pollute the waters of the state.

(e) If the regional board grants an exemption pursuant to subdivision (d), the regional board shall revise the waste discharge requirements prescribed pursuant to Section 13263 of the Water Code for that surface impoundment based upon a review of the report and shall include conditions in the waste discharge requirements to ensure that the waters of the state will not be threatened with pollution or polluted.

(f) An exemption granted pursuant to subdivision (d) or (g) shall not be effective for more than five years. A regional board shall not renew the exemption unless the regional board makes the findings specified in subdivision (d).

(g) If a regional board does not take any action by June 30, 1988, on a completed application for an exemption that was filed on or before January 1, 1986, the person who filed the application may file a request with the state board on or before July 31, 1988, to review the application. The state board shall deny or grant the exemption pursuant to the findings specified in subdivision (d) within four months after the request for review is filed, and, if the board grants the exemption, the state board shall revise the waste discharge requirements pursuant to subdivision (e). An exemption granted pursuant to this subdivision is subject to the requirements specified in subdivision (f). The state board shall act on an application for exemption on or before November 30, 1988. A person who files a request for a review of an application with the state board is exempt from subdivision (a) until the state board acts on the application, and, if the state board denies the exemption, the applicant is exempt from subdivision (a) for one year from the date of the denial of the exemption for the sole purpose of bringing the surface impoundment into compliance with subdivision (a).

(h) Applications for an exemption or a renewal of an exemption shall be accompanied by the fee specified in the fee schedule adopted by the state board pursuant to Section 25208.3.

SEC. 5. Section 25208.18 is added to the Health and Safety Code, to read:

25208.18. (a) Notwithstanding any other provision of this article, a regional board may grant a person an exemption from this article for a surface impoundment if the applicant demonstrates and the regional board determines that the surface impoundment contains only agricultural surface or subsurface drainage waters, that the surface impoundment meets all of the criteria in subdivision (b), and that the person complies with the requirements of subdivision (c). A surface impoundment located in a federal or state wildlife refuge or area is not eligible for an exemption under this section.

(b) A regional board may grant an exemption pursuant to subdivision (a) only if the surface impoundment, at the time an extension is granted, meets all of the following criteria:

(1) The surface impoundment is a drainage water management unit, as defined in subparagraph (A) of paragraph (1) of subdivision (d) of Section 13452 of the Water Code.

(2) The regional board has issued waste discharge requirements for the operation of the surface impoundment, or waived the issuance of waste discharge requirements. The regional board shall adopt findings in support of its action if it has waived the issuance of waste discharge requirements.

(3) The surface impoundment is operated in a manner acceptable to the regional board, it is in compliance with waste discharge requirements, if issued, and it is not adversely affecting a potential source of drinking water.

(4) The person who owns the surface impoundment demonstrates to the satisfaction of the regional board that measures to prevent adverse impacts to wildlife have been implemented or will be implemented pursuant to a schedule adopted by the regional board.

(5) The person who owns the surface impoundment demonstrates to the satisfaction of the regional board that a groundwater quality monitoring program designed to detect lateral seepage has been implemented or will be implemented pursuant to a schedule adopted by the regional board.

(c) To qualify for an exemption under this section, the person shall file an application for an exemption with the regional board within 180 days after the surface impoundment becomes subject to this article, together with an initial filing fee of three thousand dollars ($3,000). The fee revenues shall be deposited in the Surface Impoundment Assessment Account in the General Fund. The application shall contain the names of persons who own or operate each surface impoundment for which the exemption is sought and the location of each surface impoundment for which the exemption is sought. The application shall be accompanied by a technical report containing all of the following information:

(1) Information fully characterizing the waste constituents in the drainage water.

(2) A description of the installed features of the surface impoundment, including a description of engineering design.

(3) A description of the precipitation and drainage controls for the surface impoundment.

(4) Operation plans for waste containment.

(5) Estimates of the rate of waste water percolation.

(6) Information on groundwater quality immediately underlying and adjacent to the surface impoundment.

(d) The regional board shall act on an exemption application within 180 days of receipt of a complete application and technical report. The regional board shall notify an applicant not later than 30 days after receipt of an application and technical report if either the application or technical report do not fully comply with the requirements of this section. If an application or technical report is determined by the regional board to be in noncompliance, the applicant shall provide additional information to the regional board within 60 days of notification of the regional board's determination of noncompliance. A regional board shall not take action on the application if the additional information required by the regional board is received after this 60-day period.

If the exemption is granted, the regional board shall conduct annual inspections of the surface impoundment. Except as provided in subdivision (e), an exemption granted pursuant to this section shall be effective for four years from the date it is granted, or until January 1, 1993, whichever is earlier.

(e) If a regional board finds that a surface impoundment granted an exemption pursuant to this section does not comply with the criteria specified in subdivision (b) or with the report filed pursuant to subdivision (c), the regional board shall revoke the exemption. If an exemption is revoked, all of the provisions of this article, as applicable, apply to the surface impoundment.

(f) The state board shall provide guidance to the regional boards to ensure the uniform administration of this section.

(g) On or before January 1, 1992, the state board shall submit a report to the Legislature on the status of compliance with this section, including, but not limited to, all of the following information:

(1) The number of surface impoundments for which applications have been filed pursuant to this section.

(2) The number of surface impoundments which were exempted from this article under this section.

(3) The status of completed or ongoing studies of technologies and methods for the management of agricultural drainage water.

(4) Using existing studies and reports, a description of options for the management of agricultural drainage water and any relevant findings.

(h) This section does not alter or diminish the authority of the state board, or a regional board, under Division 7 (commencing with

Section 13000) of the Water Code, including any regulations adopted pursuant thereto.

(i) Notwithstanding Section 25208.3, each person granted an exemption pursuant to subdivision (c) shall pay only the application fee provided in subdivision (c) and any additional fees assessed by the state board to recover actual costs incurred by the state board and regional boards to administer this section. If the exemption is revoked pursuant to subdivision (c) or the application is denied, the person shall pay the fees assessed pursuant to Section 25208.3.

(j) This section shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, extends or deletes that date.

CHAPTER 921

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

[Approved by Governor September 15, 1988 Filed with Secretary of State September 15, 1988]

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

SECTION 1. The sum of fifty-five million dollars ($55,000,000) is appropriated to the Department of the Youth Authority as follows:

(a) The sum of five million dollars ($5,000,000) is appropriated from the 1986 Prison Construction Fund for site development for a 600-bed facility at the Northern California Youth Center.

(b) The sum of fifty million dollars ($50,000,000) is appropriated from the 1988 Prison Construction Fund to the Department of the Youth Authority without regard to fiscal years for the purpose of completing construction work of and equipment acquisition for the 600-bed institution at the Northern California Youth Center.

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

Facilities of the Youth Authority are severely overcrowded and this bill is necessary to expedite the construction of facilities which would alleviate existing critically crowded facilities.

CHAPTER 922

An act to amend Sections 12024.2, 12246, and 12701 of, and to add Section 12736 to, the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 12024.2 of the Business and Professions Code is amended to read:

12024.2. (a) It is unlawful for any person to compute, at the time of sale of a commodity, a value which is not a true extension of a price per unit which is then advertised, posted, or quoted or to charge, at the time of sale of a commodity, a value which is more than the price which is then advertised, posted, or quoted.

A violation of this subdivision is a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted, or quoted price per unit) is more than one dollar ($1) greater than the total true value of the commodity offered for sale.

(b) A violation of this section is an infraction when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted, or quoted price per unit) is not more than one dollar ($1) greater than the total true value of the commodity offered for sale. The violation is punishable by a fine of not more than one hundred dollars ($100).

SEC. 2. Section 12246 of the Business and Professions Code is amended to read:

12246. This article shall remain in effect only until January 1, 1993, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

SEC. 3. Section 12701 of the Business and Professions Code is amended to read:

12701. The following persons are not weighmasters:

(a) Retailers weighing, measuring, or counting commodities for sale by them in retail stores in the presence of, and directly to, consumers.

(b) Except for persons subject to Section 12730, producers of agricultural commodities or livestock, who weigh commodities produced or purchased by them or by their producer neighbors, when no charge is made for the weighing, or when no signed or initialed statement or memorandum is issued of the weight upon

which a purchase or sale of the commodity is based.

(c) Common carriers issuing bills of lading on which are recorded, for the purpose of computing transportation charges, the weights of commodities offered for transportation, including carriers of household goods when transporting shipments weighing less than 1,000 pounds.

(d) Milk samplers and weighers licensed pursuant to Article 8 (commencing with Section 35161) of Chapter 12 of Part 1 of Division 15 of the Food and Agricultural Code, when performing the duties for which they are licensed.

(e) Persons who measure the amount of oil, gas, or other fuels for purposes of royalty computation and payment, or other operations of fuel and oil companies and their retail outlets.

(f) Newspaper publishers weighing or counting newspapers for sale to dealers or distributors.

(g) Textile maintenance establishments weighing, counting, or measuring any articles in connection with the business of those establishments.

(h) Garbage and refuse disposal districts operating pursuant to Chapter 1.5 (commencing with Section 4170) of Part 2 of Division 5 of the Health and Safety Code, county sanitation districts operating pursuant to Chapter 3 (commencing with Section 4700) of Part 3 of Division 5 of the Health and Safety Code, and solid waste facilities, as defined in Section 66720.1 of the Government Code.

(i) Persons who purchase scrap metal or salvage materials pursuant to a nonprofit recycling program.

(j) Pest control operators licensed pursuant to Chapter 4 (commencing with Section 11701) of Division 6 of the Food and Agricultural Code.

(k) Retailers, or recycling centers established solely for the redemption of empty beverage containers, as that phrase is defined in Section 14512 of the Public Resources Code, who are weighing, measuring, or counting salvage or returnable materials for purchase or redemption by them in retail stores, or, in the case of recycling centers, on the retail store premises or on a parking lot immediately adjacent to a retail store which is used for the purpose of parking by the store customers, directly from and in the presence of the seller. "Retailer" means an entity which derives 90 percent or more of its income from the sale of small quantities of food or nonfood items, or both, directly to consumers. "Salvage materials" means used paper products and used containers made of aluminum, tin, glass, or plastic.

SEC. 4. Section 12736 is added to the Business and Professions Code, to read:

12736. The director may adopt necessary rules and regulations regarding the accuracy of automated systems for retail commodity price charging referred to as "scanners."

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district

will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 923

An act to amend Section 87304 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 87304 of the Government Code is amended to read:

87304. If any agency fails to submit a proposed conflict of interest code or amendments within the time limits prescribed pursuant to Section 87303 or 87306, the code reviewing body may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency If the code reviewing body does not issue an appropriate order or take other action within 90 days of the deadline imposed on the agency as prescribed in Section 87303 or 87306, the commission may issue any appropriate order directed to the agency or take any other appropriate action, including the adoption of a conflict of interest code for the agency. The commission shall consult with the agency before ordering the adoption of a conflict of interest code for the agency.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 924

An act to amend Sections 615, 660, 4014, 5201, 12110, 12111, 21100, 22513, 22520, 22520.5, 24600, 24603, 24605, 25110, 25253, 27700, 27907, 29000, and 29004 of, and to amend the heading of Article 6 (commencing with Section 27700) of Chapter 5 of Division 12 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 615 of the Vehicle Code is amended to read:

615. (a) A "tow truck" is a motor vehicle which has been altered or designed and equipped for, and primarily used in the business of, transporting vehicles by means of a crane, hoist, tow bar, tow line, or dolly or is otherwise primarily used to render assistance to other vehicles. A "roll-back carrier" designed to carry up to two vehicles is also a tow truck. "Tow truck" does not include an automobile dismantlers' tow vehicle.

(b) Persons licensed as a repossession agency pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code may utilize a tow truck when repossessing vehicles.

(c) "Automobile dismantlers' tow vehicle" means a tow vehicle which is registered by an automobile dismantler licensed pursuant to Chapter 3 (commencing with Section 11500) of Division 5 and which is used exclusively to tow vehicles owned by that automobile dismantler in the course of the automobile dismantling business.

SEC. 2. Section 660 of the Vehicle Code is amended to read:

660. The "unladen weight" of a vehicle is the weight equipped and ready for operation on the road including the body, fenders, oil in motor, radiator full of water, with five gallons of gasoline or equivalent weight of other motor fuel; also equipment required by law, and unless exempted under Section 661, any special cabinets, boxes or body parts permanently attached to the vehicle, and any machinery, equipment or attachment which is attendant to the efficient operation of the body or vehicle. Unladen weight shall not include any load or any machinery or mechanical apparatus, such as, but not limited to, wood saws, well-drilling machines, spray apparatus, tow truck cranes, and grinding equipment. The unladen weight of a vehicle shall have no application in determining any fee under this code or the Revenue and Taxation Code other than Section 9400.

SEC. 3. Section 4014 of the Vehicle Code is amended to read:

4014. Any portable or collapsible dolly carried in a tow truck or in a truck used by an automobile dismantler and used upon a highway exclusively for towing disabled vehicles is exempt from registration.

SEC 4. Section 5201 of the Vehicle Code is amended to read:

5201. License plates shall at all times be securely fastened to the vehicle for which they are issued so as to prevent the plates from swinging and shall be mounted in a position to be clearly visible, and shall be maintained in a condition so as to be clearly legible. The rear license plate shall be mounted not less than 12 inches nor more than 60 inches from the ground, and the front license plate shall be mounted not more than 60 inches from the ground, except as follows:

(a) The rear license plate on a tow truck may be mounted on the left-hand side of the mast assembly at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(b) The rear license plate on a tank vehicle hauling hazardous waste, as defined in Section 25117 of the Health and Safety Code, or asphalt material may be mounted not less than 12 inches nor more than 90 inches from the ground.

(c) The rear license plate on a truck tractor may be mounted at the rear of the cab of the vehicle, not less than 12 inches nor more than 90 inches from the ground.

(d) The rear license plate of a vehicle designed by the manufacturer for the collection and transportation of garbage, rubbish, or refuse and which is used regularly for the collection and transportation of such material by any person or governmental entity employed to collect, transport, and dispose of garbage, rubbish, or refuse may be mounted not less than 12 inches nor more than 90 inches from the ground.

(e) No covering shall be used on license plates. However, the installation of a cover over a lawfully parked vehicle to protect it from the weather and the elements does not constitute a violation of this subdivision. Any peace officer or other regularly salaried employee of a public agency designated to enforce laws, including local ordinances, relating to the parking of vehicles may temporarily remove so much of such a cover as is necessary to inspect any license plate, tab, or indicia of registration on a vehicle.

SEC. 5. Section 12110 of the Vehicle Code is amended to read:

12110. (a) Except as provided in subdivision (b), no towing service shall provide and no person or public entity shall accept any direct or indirect commission, gift, or any compensation whatever from a towing service in consideration of arranging or requesting the services of a tow truck. As used in this section, "arranging" does not include the activities of employees or principals of a provider of towing services in responding to a request for towing services.

(b) Subdivision (a) does not preclude a public entity otherwise authorized by law from requiring a fee in connection with the award of a franchise for towing vehicles on behalf of that public entity. However, the fee in such cases shall not exceed the amount necessary to reimburse the public entity for its actual and reasonable costs incurred in connection with the towing program.

SEC. 6. Section 12111 of the Vehicle Code is amended to read:

12111. (a) Except as provided in subdivision (b), no city or city and county may impose a business license tax for revenue-raising purposes on the operation of a tow truck in its jurisdiction if the vehicle tower maintains no fixed place of business within the boundaries of the city or city and county.

(b) A city or city and county may impose a business license tax upon a vehicle tower doing business within its jurisdiction who has no fixed place of business therein, if the license tax is graduated

according to gross receipts attributable to work done within the city or city and county.

SEC. 7. Section 21100 of the Vehicle Code is amended to read:

21100. Local authorities may adopt rules and regulations by ordinance or resolution regarding the following matters:

(a) Regulating or prohibiting processions or assemblages on the highways.

(b) Licensing and regulating the operation of vehicles for hire and drivers of passenger vehicles for hire.

(c) Regulating traffic by means of traffic officers.

(d) Regulating traffic by means of official traffic control devices meeting the requirements of Section 21400.

(e) Regulating traffic by means of any person given temporary or permanent appointment for such duty by the local authority whenever official traffic control devices are disabled or otherwise inoperable, at the scenes of accidents or disasters, or at such locations as may require traffic direction for orderly traffic flow.

No person shall, however, be appointed pursuant to this subdivision unless and until the local authority has submitted to the commissioner or to the chief law enforcement officer exercising jurisdiction in the enforcement of traffic laws within the area in which such person is to perform such duty, for review, a proposed program of instruction for the training of a person for such duty, and unless and until the commissioner or such other chief law enforcement officer approves the proposed program. The commissioner or such other chief law enforcement officer shall approve such a proposed program if he reasonably determines that the program will provide sufficient training for persons assigned to perform the duty described in this subdivision.

(f) Regulating traffic at the site of road or street construction or maintenance by persons authorized for such duty by the local authority.

(g) Licensing and regulating the operation of tow truck service or tow truck drivers whose principal place of business or employment is within the jurisdiction of the local authority, excepting the operation and operators of any auto dismantlers' tow vehicle licensed under Section 11505 or any tow truck operated by a repossessing agency licensed under Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code and its registered employees. Nothing in this subdivision shall limit the authority of a city or city and county pursuant to Section 12111.

(h) Operation of bicycles, and, as specified in Section 21114.5, electric carts by physically disabled persons, or persons 50 years of age or older, on the public sidewalks.

(i) Providing for the appointment of nonstudent school crossing guards for the protection of persons who are crossing a street or highway in the vicinity of a school or while returning thereafter to a place of safety.

(j) Regulating the methods of deposit of garbage and refuse in

streets and highways for collection by the local authority or by any person authorized by the local authority.

(k) Regulating cruising. The ordinance or resolution adopted pursuant to this subdivision shall regulate cruising, which shall be defined as the repetitive driving of a motor vehicle past a traffic control point in traffic which is congested at or near the traffic control point, as determined by the ranking peace officer on duty within the affected area, within a specified time period and after the vehicle operator has been given an adequate written notice that further driving past the control point will be a violation of the ordinance or resolution. No person is in violation of an ordinance or resolution adopted pursuant to this subdivision unless (1) that person has been given the written notice on a previous driving trip past the control point and then again passes the control point in that same time interval and (2) the beginning and end of the portion of the street subject to cruising controls are clearly identified by signs that briefly and clearly state the appropriate provisions of this subdivision and the local ordinance or resolution on cruising.

(*l*) Regulating or authorizing the removal by peace officers of vehicles unlawfully parked in a fire lane, as described in Section 22500.1, on private property. Any removal pursuant to this subdivision shall be consistent to the extent possible with the procedures for removal and storage set forth in Chapter 10 (commencing with Section 22650).

SEC. 8. Section 22513 of the Vehicle Code is amended to read:

22513. The owner or operator of a tow truck who complies with the requirements of this code relating to tow trucks may stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle, except that the person may not stop or park upon a freeway which has full control of access and no crossing at grade unless the tow truck has been summoned to render assistance to a disabled vehicle.

SEC. 9. Section 22520 of the Vehicle Code is amended to read:

22520. No person shall stop, park, or leave standing any vehicle upon a freeway which has full control of access and no crossings at grade except:

(a) When necessary to avoid injury or damage to persons or property.

(b) When required by law or in obedience to a peace officer or official traffic control device.

(c) Any person actually engaged in maintenance or construction on freeway property or any employee of a public agency actually engaged in the performance of official duties.

(d) Any vehicle which is so disabled that it is impossible to avoid temporarily stopping and any vehicle which has been summoned to render assistance to a vehicle or person, including a vehicle owned by the donor of free emergency assistance, which has been summoned by display upon or within a disabled vehicle of a placard or sign given to the driver of the disabled vehicle by the donor for

the specific purpose of summoning assistance, other than towing service, from the donor.

(e) In locations where stopping, standing or parking is specifically permitted; provided, however, that buses may not stop on freeways unless sidewalks are provided with shoulders of sufficient width to permit stopping without interfering with the normal movement of traffic and without the possibility of crossing over fast lanes to reach the bus stop.

(f) Any person reporting a traffic accident or other situation or incident to a peace officer or any person specified in subdivision (c), either directly or by means of an emergency telephone or similar device.

(g) The owner or operator of a tow truck operating under an agreement with the Department of the California Highway Patrol for the purpose of rapid removal of impediments to traffic.

SEC. 10. Section 22520.5 of the Vehicle Code is amended to read:

22520.5. (a) No person shall solicit, display, sell, offer for sale, or otherwise vend or attempt to vend any merchandise or service while being wholly or partly within any of the following:

(1) The right-of-way of any freeway, including any on ramp, off ramp, or roadway shoulder which lies within the right-of-way of the freeway.

(2) Any roadway or adjacent shoulder within 500 feet of a freeway off ramp or on ramp.

(3) Any sidewalk within 500 feet of a freeway off ramp or on ramp, when vending or attempting to vend to vehicular traffic.

(b) Subdivision (a) does not apply to a roadside rest area or vista point located within a freeway right-of-way which is subject to Section 22520.6, to a tow truck or service vehicle rendering assistance to a disabled vehicle, or to a person issued a permit to vend upon the freeway pursuant to Section 670 of the Streets and Highways Code.

(c) A violation of this section is an infraction. A second or subsequent conviction of a violation of this section is a misdemeanor.

SEC. 11. Section 24600 of the Vehicle Code is amended to read:

24600. During darkness every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall be equipped with lighted taillamps mounted on the rear as follows:

(a) Every vehicle shall be equipped with one or more taillamps.

(b) Every vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with not less than two taillamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one taillamp which shall be mounted at or near the vertical centerline of the vehicles. If a vehicle is equipped with two taillamps, they shall be mounted as specified in subdivision (d).

(c) Every vehicle or vehicle at the end of a combination of vehicles, subject to subdivision (a) of Section 22406 shall be equipped

with not less than two taillamps.

(d) When two taillamps are required, at least one shall be mounted at the left and one at the right side respectively at the same level.

(e) Taillamps shall be red in color and shall be plainly visible from all distances within 500 feet to the rear except that taillamps on vehicles manufactured after January 1, 1969, shall be plainly visible from all distances within 1,000 feet to the rear.

(f) Taillamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow truck, in addition to being equipped with the required taillamps, may also be equipped with two taillamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position. The additional taillamps on a tow truck shall be lighted whenever the headlamps are lighted.

SEC. 12. Section 24603 of the Vehicle Code is amended to read:

24603. Every motor vehicle which is not in combination with any other vehicle and every vehicle at the end of a combination of vehicles shall at all times be equipped with stoplamps mounted on the rear as follows:

(a) Every such vehicle shall be equipped with one or more stoplamps.

(b) Every such vehicle, other than a motorcycle, manufactured and first registered on or after January 1, 1958, shall be equipped with two stoplamps, except that trailers and semitrailers manufactured after July 23, 1973, which are less than 30 inches wide, may be equipped with one stoplamp which shall be mounted at or near the vertical centerline of the trailer. If such vehicle is equipped with two stoplamps, they shall be mounted as specified in subdivision (d).

(c) Except as provided in subdivision (h), stoplamps on vehicles manufactured on or after January 1, 1969, shall be mounted not lower than 15 inches nor higher than 72 inches, except that a tow truck, in addition to being equipped with the required stoplamps, may also be equipped with two stoplamps which may be mounted not lower than 15 inches nor higher than the maximum allowable vehicle height and as far forward as the rearmost portion of the driver's seat in the rearmost position.

(d) Where two stoplamps are required, at least one shall be mounted at the left and one at the right side, respectively, at the same level.

(e) Stoplamps on vehicles manufactured on or after January 1, 1979, shall emit a red light. Stoplamps on vehicles manufactured before January 1, 1979, shall emit a red or yellow light. All stoplamps shall be plainly visible and understandable from a distance of 300 feet to the rear both during normal sunlight and at nighttime, except that stoplamps on a vehicle of a size required to be equipped with clearance lamps shall be visible from a distance of 500 feet during

such times.

(f) Stoplamps shall be activated upon application of the service (foot) brake and the hand control head for air, vacuum, or electric brakes. In addition, all stoplamps may be activated by a mechanical device designed to function only upon sudden release of the accelerator while the vehicle is in motion. Stoplamps on vehicles equipped with a manual transmission may be manually activated by a mechanical device when the vehicle is downshifted if the device is automatically rendered inoperative while the vehicle is accelerating.

(g) Any vehicle may be equipped with supplemental stoplamps mounted to the rear of the rearmost portion of the driver's seat in its rearmost position in addition to the lamps required to be mounted on the rear of the vehicle. Supplemental stoplamps installed after January 1, 1979, shall be red in color and mounted not lower than 15 inches above the roadway. The supplemental stoplamp on that side of a vehicle toward which a turn will be made may flash as part of the supplemental turn signal lamp.

A supplemental stoplamp may be mounted inside the rear window of a vehicle, if it is mounted at the centerline of the vehicle and is constructed and mounted so as to prevent any light, other than a monitorial indicator emitted from the device, either direct or reflected, from being visible to the driver.

(h) Any supplemental stoplamp installed after January 1, 1987, shall comply with Federal Motor Vehicle Safety Standard No. 108 (49 C.F.R. 571.108). Any vehicle equipped with a stoplamp which complies with the federal motor vehicle safety standards applicable to that make and model vehicle shall conform to that applicable safety standard unless modified to comply with the federal motor vehicle safety standard designated in this subdivision.

SEC. 13. Section 24605 of the Vehicle Code is amended to read:

24605. (a) A tow truck or an automobile dismantler's tow vehicle used to tow a vehicle shall be equipped with and carry a taillamp, a stoplamp, turn signal lamps, and a portable electrical extension cord for use in displaying the lamps on the rear of a towed vehicle.

(b) Whenever a tow truck or an automobile dismantler's tow vehicle is towing a vehicle and a stoplamp and turn signal lamps cannot be lighted and displayed on the rear of the towed vehicle, the operator of the tow truck or the automobile dismantler's tow vehicle shall, by means of an extension cord, display to the rear a stoplamp and turn signal lamps mounted on the towed vehicle, except as provided in subdivision (c). During darkness, if a taillamp on the towed vehicle cannot be lighted, the operator of the tow truck or the automobile dismantler's tow vehicle shall, by means of an extension cord, display to the rear a taillamp mounted on the towed vehicle. No other lighting equipment need be displayed on the towed vehicle.

(c) Whenever any motor vehicle is towing another motor vehicle, stoplamps and turn signal lamps are not required on the towed motor

vehicle, but only if a stoplamp and a turn signal lamp on each side of the rear of the towing vehicle is plainly visible to the rear of the towed vehicle. This subdivision does not apply to driveaway-towaway operations.

SEC. 14. Section 25110 of the Vehicle Code is amended to read:

25110. (a) The following vehicles may be equipped with utility flood or loading lamps mounted on the rear, and sides, which project a white light illuminating an area to the side or rear of the vehicle for a distance not to exceed 75 feet at the level of the roadway:

(1) Tow trucks which are used to tow disabled vehicles may display utility floodlights but only during the period of preparation for towing at the location from which a disabled vehicle is to be towed.

(2) Ambulances used to respond to emergency calls may display utility flood and loading lights but only at the scene of an emergency or while loading or unloading patients.

(3) Firefighting equipment designed and operated exclusively as such may display utility floodlamps only at the scene of an emergency.

(4) Vehicles used by law enforcement agencies or organizations engaged in the detoxification of alcoholics may display utility flood or loading lights when loading or unloading persons under the influence of intoxicants for transportation to detoxification centers or places of incarceration.

(5) Vehicles used by law enforcement agencies for mobile blood alcohol testing, drug evaluation, or field sobriety testing in the enforcement of Sections 23101, 23102, 23105, and 23106.

(6) Vehicles used by publicly or privately owned public utilities may display utility flood or loading lights when engaged in emergency roadside repair of electric, gas, telephone, telegraph, water, or sewer facilities.

(b) Lamps permitted under subdivision (a) shall not be lighted during darkness, except while the vehicle is parked, nor project any glaring light into the eyes of an approaching driver.

SEC. 15. Section 25253 of the Vehicle Code is amended to read:

25253. Tow trucks used to tow disabled vehicles shall be equipped with flashing amber warning lamps.

The tow trucks may display flashing amber warning lamps while providing service to a disabled vehicle. A flashing amber warning lamp upon a tow truck may be displayed to the rear when such tow truck is towing a vehicle and moving at a speed slower than the normal flow of traffic.

SEC. 16. The heading of Article 6 (commencing with Section 27700) of Chapter 5 of Division 12 of the Vehicle Code is amended to read:

Tow Trucks

SEC. 17. Section 27700 of the Vehicle Code is amended to read:

27700. (a) Tow trucks shall be equipped with and carry all of the following:

(1) One or more brooms, and the driver of the tow truck engaged to remove a disabled vehicle from the scene of an accident shall remove all glass and debris deposited upon the roadway by the disabled vehicle which is to be towed.

(2) One or more shovels, and whenever practical the tow truck driver engaged to remove any disabled vehicle shall spread dirt upon that portion of the roadway where oil or grease has been deposited by the disabled vehicle.

(3) One or more fire extinguishers of the dry chemical or carbon dioxide type with an aggregate rating of at least 4-B, C units and bearing the approval of a laboratory nationally recognized as properly equipped to make the approval.

(b) A person licensed as a repossession agency pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code is exempt from this section.

SEC. 18. Section 27907 of the Vehicle Code is amended to read:

27907. There shall be displayed in a conspicuous place on both the right and left side of a tow truck or an automobile dismantler's tow vehicle used to tow or carry vehicles a sign showing the name of the company or the owner or operator of the tow truck or the automobile dismantler's tow vehicle. The sign shall also contain the business address and telephone number of the owner or driver. The letters and numbers of the sign shall not be less than 2½ inches in height and shall be in contrast to the color of the background upon which they are placed.

A person licensed as a repossession agency pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, or a registered employee of the agency, may use the license number issued to the agency by the Department of Consumer Affairs in lieu of a name, business address, and telephone number.

SEC. 19. Section 29000 of the Vehicle Code is amended to read:

29000. Unless specified, this chapter does not apply to tow trucks or to the drawbar or other connection between a motor vehicle and a pole or pipe dolly or logging dolly or to any lawful trailer used as a pole or pipe dolly.

SEC. 20. Section 29004 of the Vehicle Code is amended to read:

29004. (a) Every towed vehicle shall be coupled to the towing vehicle or tow truck by means of a safety chain, cable, or equivalent device in addition to the regular drawbar, tongue or other connection.

(b) All safety connections and attachments shall be of sufficient strength to control the towed vehicle in event of failure of the regular hitch, coupling device, drawbar, tongue or other connection.

(c) No more slack shall be left in a safety chain, cable or equivalent device than is necessary to permit proper turning. When a drawbar, as defined in Section 300, is used as the towing connection, the safety chain, cable or equivalent device shall be connected to the towed and towing vehicle and to the drawbar so as to prevent the drawbar from dropping to the ground if the drawbar fails.

(d) The requirement of subdivision (a) does not apply to a semitrailer having a connecting device composed of a fifth wheel and kingpin assembly, nor to a towed motor vehicle when steered by a person who holds a license for the type of vehicle being towed.

SEC. 21. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 925

An act to amend Section 594.1 of the Penal Code, relating to crimes.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Section 594.1 of the Penal Code is amended to read:

594.1. (a) It shall be unlawful for any person, firm, or corporation, except a parent or legal guardian, to sell or give or in any way furnish to another person, who is in fact under the age of 18 years, any aerosol container of paint that is capable of defacing property without first obtaining bona fide evidence of majority and identity.

For purposes of this subdivision, "bona fide evidence of majority and identity" is any document evidencing the age and identity of an individual which has been issued by a federal, state, or local governmental entity, and includes, but is not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the armed forces.

This subdivision shall not apply to the furnishing of six ounces or less of an aerosol container of paint to a minor for the minor's use or possession under the supervision of the minor's parent, guardian, instructor, or employer.

(b) It shall be unlawful for any person under the age of 18 years to purchase an aerosol container of paint that is capable of defacing property.

(c) Every retailer selling or offering for sale in this state aerosol containers of paint capable of defacing property shall post in a conspicuous place a sign in letters at least three-eighths of an inch high stating: "Any person who maliciously defaces real or personal property with paint is guilty of vandalism which is punishable by a fine, imprisonment, or both."

(d) It is unlawful for any person to carry on his or her person and in plain view to the public an aerosol container of paint while in any posted public facility, park, playground, swimming pool, beach or recreational area, other than a highway, street, alley or way, unless he or she has first received valid authorization from the governmental entity which has jurisdiction over the public area.

As used in this subdivision "posted" means a sign placed in a reasonable location or locations stating it is a misdemeanor to possess a spray can of paint in such public facility, park, playground, swimming pool, beach or recreational area without valid authorization.

(e) It is unlawful for any person under the age of 18 years to possess an aerosol container of paint for the purpose of defacing property while on any public highway, street, alley, or way, or other public place, regardless of whether that person is or is not in any automobile, vehicle, or other conveyance.

(f) Violation of any provision of this section is a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 926

An act to amend Section 54995 of, and to amend and renumber Section 53077 of, the Government Code, and to amend Section 31053 of the Water Code, relating to local agencies.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Section 53077 of the Government Code is amended and renumbered to read:

66006. (a) If a local agency requires the payment of a fee specified in subdivision (b) in connection with the approval of a development project, the local agency receiving the fee shall deposit it with the other fees for the improvement in a separate capital facilities account or fund in a manner to avoid any commingling of

the fees with other revenues and funds of the local agency, except for temporary investments, and expend those fees solely for the purpose for which the fee was collected. Any interest income earned by moneys in the capital facilities account or fund shall also be deposited in that account or fund and shall be expended only for the purpose for which the fee was originally collected.

(b) For purposes of this section, "fee" means any fee imposed to provide for an improvement to be constructed to serve a development project, or which is a fee within the meaning of subdivision (b) of Section 66000, and that is imposed by the local agency as a condition of approving the development project.

(c) Any person may request an audit of any local agency fee or charge that is subject to Section 54997, including fees or charges of school districts, in accordance with that section.

(d) The Legislature finds and declares that untimely or improper allocation of development fees hinders economic growth and is, therefore, a matter of statewide interest and concern. It is, therefore, the intent of the Legislature that subdivision (a) shall supersede all conflicting local laws and shall apply in charter cities.

SEC. 2. Section 54995 of the Government Code is amended to read:

54995. Any judicial action or proceeding to attack, review, set aside, void, or annul an ordinance, resolution, or motion levying a new fee or service charge, or modifying or amending an existing fee or service charge, duly enacted by a local agency, as defined in Section 54994, shall be commenced within 120 days of the effective date of the ordinance, resolution, or motion.

If an ordinance, resolution, or motion provides for an automatic adjustment in a fee or service charge, and the automatic adjustment results in an increase in the amount of a fee or service charge, any action or proceeding to attack, review, set aside, void, or annul the increase shall be commenced within 120 days of the effective date of the increase.

SEC. 3. Section 31053 of the Water Code is amended to read:

31053. No publicly owned utility shall commence to provide any service for, on, or to any land within a county water district which is subject to the lien of a general obligation bonded indebtedness or which was the subject of a lease-purchase, revenue, or other type of debt incurred for capital improvements by or on behalf of the district incurred by the district for the purpose of providing a service similar to that which the utility proposes to provide.

However, a publicly owned utility may commence to provide service, otherwise prohibited, upon either of the following conditions:

(a) If the board of directors of the county water district, by resolution permits the service.

(b) In any portion of such a county water district proposed to be served by the publicly owned utility in which the total number of registered voters residing therein exceeds 200, if at least two-thirds

of the voters voted at a special county water district election to permit the service The election shall be called and held as an initiative measure pursuant to Section 30830.

SEC. 4. It is the intent of the Legislature that the amendment and renumbering of Section 53077 of the Government Code purposed by Section 1 of this bill shall prevail over the amendment and renumbering of Section 53077 by Section 2 of Assembly Bill No 3980 of the 1987–88 Regular Session of the Legislature.

CHAPTER 927

An act to amend Sections 8007, 33400, 33403, 33404, and 33406 of, to add Section 33407 to, and to repeal Sections 33401 and 33405 of, the Education Code, relating to educational evaluations.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 8007 of the Education Code is amended to read:

8007 The State Department of Education and the Board of Governors of the California Community Colleges shall submit the following reports each year to the Legislature:

(a) An annual descriptive report containing information on vocational education and technical training programs, including regional occupational centers and programs. The report shall be coordinated with federal evaluation requirements pursuant to Public Law 98-524 and shall contain all of the following:

(1) Enrollment defined in terms of secondary students, postsecondary students, and adults.

(2) The number of graduates of programs and dropout rates

(3) The number of students trained for specific entry level occupations.

(4) Fiscal information, including income by source and expenditure by category.

(5) Other factors as determined in Budget Act language pursuant to Section 33404.

(b) An annual individual program evaluation derived from a representative sample of participating districts and schools containing information on program effectiveness as measured by:

(1) The extent to which program completers:

(A) Find employment in occupations related to their training.

(B) Are considered by their employers to be well trained and prepared for employment.

(2) Other factors as determined in Budget Act language pursuant to Section 33404.

(c) A copy of the annual state plan for vocational education.

SEC. 2. Section 33400 of the Education Code is amended to read:

33400. It is the intention of the Legislature in enacting this article that:

(a) Evaluations shall be performed in such a manner as to minimize the resources required of school districts in the collection, analysis, and reporting of evaluation information. In order to achieve this goal, program evaluations shall require only that information which is essential to the State Department of Education for carrying out statutorily mandated functions, and shall be conducted only as necessary for the conduct of those functions. In addition, in evaluations of state-funded programs, the department may use sampling procedures as it determines to be appropriate based on professional standards.

(b) Evaluations shall be performed and reported in such a manner as to maximize their utility to decisionmakers in the Legislature.

SEC. 3. Section 33401 of the Education Code is repealed.

SEC. 4. Section 33403 of the Education Code is amended to read:

33403. The State Department of Education shall perform evaluations of those educational programs as determined to be necessary by the Superintendent of Public Instruction to carry out the purposes of this article or as required by the Legislature. Program evaluations determined to be necessary by the Superintendent of Public Instruction shall be carried out in accordance with Section 33400.

SEC. 5. Section 33404 of the Education Code is amended to read:

33404. It is the understanding of the Legislature that the evaluation needs of the educational programs change over a period of time and during the progress of the programs and, therefore, the Legislature may require through supplemental language to the Budget Act:

(a) That additional types of information or reporting formats be employed.

(b) That the evaluation be altered to reflect current needs.

(c) That an evaluation shall be conducted by contracted, independent evaluators.

SEC. 6. Section 33405 of the Education Code is repealed.

SEC. 7. Section 33406 of the Education Code is amended to read:

33406. The State Department of Education shall conduct special studies as determined to be necessary by the Superintendent of Public Instruction to carry out the purposes of this article or as required by the Legislature.

The department shall utilize existing information to the maximum extent feasible in conducting the special studies. The special studies shall address topics determined by the Legislature or the Superintendent of Public Instruction to be of current policy significance.

SEC. 8. Section 33407 is added to the Education Code, to read:

33407. The Superintendent of Public Instruction shall annually, not later than February 15, submit to the State Board of Education and the Legislature a proposal for the initiation or continuance for the succeeding fiscal year of special studies and evaluation activities.

CHAPTER 928

An act relating to foreign corporations.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988.]

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

SECTION 1. (a) The Legislature finds and declares that when foreign corporations do not respond diligently to consumer complaints, the available remedies are often inadequate to resolve the problems presented by the complaints.

(b) The Attorney General shall study methods of enforcement of the law as it relates to consumer complaints against foreign corporations. The study shall analyze and recommend better methods for resolving consumer complaints against foreign corporations.

(c) The cost of the study shall not exceed two thousand dollars ($2,000).

(d) The Attorney General shall make a report of the findings of the study to the Legislature no later than July 1, 1989.

CHAPTER 929

An act to amend Section 2987 of the Business and Professions Code, relating to psychology, and making an appropriation therefor.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 2987 of the Business and Professions Code is amended to read:

2987. The amount of the fees prescribed by this chapter shall be determined by the committee subject to the review and approval of the Board of Medical Quality Assurance, and shall be as follows:

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

(b) The examination fee for a psychologist shall not be more than one hundred fifty dollars ($150).

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The biennial renewal fee for a psychologist shall not be more than one hundred fifty dollars ($150)

(e) The application fee for registration and supervision of a psychological assistant by a supervisor under Section 2913, which is payable by such supervisor, shall not be more than seventy-five dollars ($75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars ($75).

(g) The duplicate license or registration fee is five dollars ($5)

(h) The delinquency fee is twenty-five dollars ($25).

(i) The endorsement fee is five dollars ($5).

CHAPTER 930

An act to add Article 1.7 (commencing with Section 7690) to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. The Legislature finds and declares that the cost of covering losses for hull and machinery for the commercial fishing fleet in California has changed greatly from year to year. In some years, the cost has been as much as 8 percent of the value of the hull and machinery if the coverage for the losses was available from private companies at all.

The Legislature further finds that hull and machinery loss pools for the commercial fishing fleet have operated successfully in Washington for over 50 years and are now permitted to operate in Alaska and Oregon.

The Legislature further finds and declares that the number of individuals seeking to form a cooperative pool to cover losses for hull and machinery in California is small and that the existing retention requirements by the Department of Insurance for private insurance companies is unnecessary to protect the members of a hull and machinery pool and has the effect of preventing the creation of these pools.

The Legislature further finds that it is preferable for the commercial fishing fleet to have coverage for hull and machinery

losses and that they should be regulated by the state with the funds held in California financial institutions.

SEC. 2. Article 1.7 (commencing with Section 7690) is added to Chapter 1 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 1.7. Vessel, Hull, and Machinery Loss Pooling

7690. (a) Any person engaged in the business of licensed commercial fishing may enter into an arrangement with other authorized persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool.

A pool established pursuant to this section is not, and shall not be, subject to the Insurance Code and is not a member of the California Insurance Guarantee Association under Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the Insurance Code.

(b) The pool established pursuant to this section shall have initial pooled resources of not less than two hundred fifty thousand dollars ($250,000) and the pool shall operate under generally acceptable accounting principles.

(c) All participating persons in any pool established pursuant to this section shall agree to pay premiums or make other mandatory financial contributions or commitments necessary to ensure a financially sound risk pool.

(d) For the purpose of this section, "person engaged in the business of licensed commercial fishing" and "authorized person" mean any natural person, partnership, corporation, or other person or entity engaged in the business of fishing for commercial purposes for which that person or its agents or employees are required to be licensed.

CHAPTER 931

An act to add Section 12517.5 to the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 12517.5 is added to the Vehicle Code, to read:

12517.5. Any person who possesses a class 1 or class 2 driver's license and a certificate to operate a schoolbus or school pupil activity bus may also operate a tour bus, and shall not be required to

obtain a tour bus driver's certificate.

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

Certification requirements for tour bus drivers are being imposed on school bus drivers who already must comply with licensing standards which exceed those required of tour bus drivers. In order to correct this inconsistency at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 932

An act to add Chapter 6.92 (commencing with Section 25420) to Division 20 of the Health and Safety Code, and to add Section 2775.6 to the Public Utilities Code, relating to gas.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988.]

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

SECTION 1. The Legislature hereby finds and declares that it is the policy of this state to encourage and facilitate the production and safe utilization of gas generated in conjunction with sanitary landfill projects, and that this is consistent with the established policy of this state relating to cogeneration technology.

SEC. 2. Chapter 6.92 (commencing with Section 25420) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.92. LANDFILL GAS

25420. For purposes of this chapter, the following definitions apply:

(a) "Person" means an individual, trust, firm, joint stock company, partnership, association, business concern, or corporation. "Person" also includes any city, county, district, and the state or any department or agency thereof, or the federal government or any department or agency thereof to the extent permitted by law.

(b) "Department" means the State Department of Health Services.

(c) "Gas corporation" has the same meaning as defined in Section 222 of the Public Utilities Code and is subject to rate regulation by the Public Utilities Commission.

25421. (a) Until the rule or order specified in subdivision (b) is adopted, no gas producer shall knowingly sell, supply, or transport landfill gas to a gas corporation, and no gas corporation shall knowingly purchase landfill gas, if that gas contains vinyl chloride in

a concentration that exceeds the operative no significant risk level set forth in Article 7 (commencing with Section 12701) of Chapter 3 of Division 2 of Title 22 of the California Code of Regulations.

(b) On or before January 1, 1990, the Public Utilities Commission shall, by rule or order, specify the maximum amount of vinyl chloride that may be found in landfill gas pursuant to the requirements of subdivision (a).

(c) No gas corporation shall knowingly and intentionally expose any customer, employee, or other person to gas from a landfill if that gas contains any chemical known to the state to cause cancer or reproductive toxicity without first giving clear and reasonable warning to that individual, except as provided by Section 25249.10.

(d) Every person who produces, sells, supplies, or releases landfill gas for sale offsite to a gas corporation shall, twice each month, sample and test the gas at the point of distribution for the presence of chemicals known to the state to cause cancer or reproductive toxicity in accordance with the test guidelines prepared under Section 41805.5. The air pollution control district or air quality management district within which the landfill is situated shall review the testing procedures for compliance with the guidelines and require the correction of any deficiencies. The district shall require, among other things, that the gas be analyzed by a laboratory certified by the department and shall transmit the results of the analysis to the department for its determination of compliance or noncompliance with subdivisions (a) and (b). The department shall fix and impose upon the gas producer a fee to cover its costs under this subdivision. The results of each sample and test shall be reported promptly to the gas corporation to which the landfill gas is sold, and any person or public agency requesting a copy of the report.

(e) Nothing in this section prohibits the direct delivery of landfill gas for the generation of electricity, the production of steam, or other industrial application.

(f) The gas corporation shall obtain the results of the test conducted pursuant to subdivision (d) and shall purchase no gas which the test shows to contain vinyl chloride that exceeds the amount permitted in subdivision (a), or if the rule or order has been adopted, as specified in subdivision (b).

(g) This section applies only to landfill gas delivered to the pipeline of a gas corporation.

25422. (a) Any person violating, or threatening to violate, Section 25421 may be enjoined in any court of competent jurisdiction.

(b) Any person who has violated Section 25421 shall be liable for a penalty not to exceed two thousand five hundred dollars ($2,500) per day for each violation. The civil penalty may be assessed and recovered in a civil action brought in any court of competent jurisdiction. The actions may be brought by the Attorney General in the name of the people of the State of California or by any district attorney or by any city attorney of a city having a population in

excess of 750,000 or with the consent of the district attorney by a city prosecutor. The penalties may also be assessed administratively pursuant to Section 25189.3.

SEC. 3. Section 2775.6 is added to the Public Utilities Code, to read:

2775.6. Every request for the recovery in rates of any costs or liability incurred by a gas corporation and resulting from any violation of Section 25241 of the Health and Safety Code, or of any costs, damages, penalties, or other liabilities incurred in connection with the sale of landfill gas containing chemicals known to the state to cause cancer or reproductive toxicity shall be reviewed by the commission for the purposes of establishing rates for the gas corporation. If the commission finds that the gas corporation, on or after January 1, 1989, knowingly and intentionally violated Section 25241 of the Health and Safety Code, the costs and liability shall be disallowed by the commission for purposes of determining rates.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 933

An act to amend Section 8151 of, to add Section 8153 to, and to add and repeal Section 8150.8 of, the Fish and Game Code, relating to fish, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 8150.8 is added to the Fish and Game Code, to read:

8150.8. (a) Any sardine quota established by the department under Section 8150.7 shall be allocated in the following manner:

(1) Twenty percent of the quota shall be reserved for fishermen landing their catches north of Point Buchon in San Luis Obispo County.

(2) Eighty percent of the quota shall be reserved for fishermen landing their catches south of Point Buchon.

(c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 2. Section 8151 of the Fish and Game Code is amended to read:

8151. (a) Notwithstanding Section 8150.5, the tolerance for sardines taken incidentally to other fishing operations and mixed with other fish in a load shall be 25 percent if, using the mackerel fishery as an indicator, the overall percentage of incidentally taken sardines mixed with jack mackerel and Pacific mackerel during the preceding month exceeded 5 percent. Thereafter, the tolerance shall increase by additional 10-percent increments whenever the overall percentage of incidentally taken sardines during the preceding month exceeded one-third of the previously established tolerance. The overall percentage of incidentally taken sardines shall be determined monthly by dividing the weight of sardines taken incidentally with jack mackerel and Pacific mackerel by the weight of all jack mackerel, Pacific mackerel, and sardines taken by the mackerel fishery.

(b) If the overall percentage of incidentally taken sardines has been less than one-fourth of the tolerance in effect during the preceding three-month period and the tolerance has not been adjusted during this three-month period, the tolerance for incidentally taken sardines shall be decreased by deducting one 10-percent increment from the tolerance.

(c) Under no circumstances shall the tolerance be more than 45 percent or less than 15 percent.

(d) The department shall inform the commission of any change in the status of the tolerance for incidentally taken sardines, and the commission shall immediately direct the department to notify commercial fishermen of the status of the tolerance by broadcasting on VHF Channel 16 between 0800 hours and 1000 hours during the first five business days of each calendar month. It is the responsibility of commercial fishermen to monitor this radio channel during the specified hours or otherwise to be aware of the status of the tolerance for incidentally taken sardines.

(e) The commission shall hold public hearings to consider the implementation of this section and shall report annually to the Legislature on the status of the sardine resource and may also make recommendations to the Legislature regarding this section or its implementation.

(f) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

SEC. 3. Section 8153 is added to the Fish and Game Code, to read:

8153. (a) In addition to any other provision of this article, 250 tons of sardines may be taken, possessed, and landed for dead bait purposes during the period March 1 to February 28. Sardines may not be taken for dead bait purposes except by fishermen operating under permits issued by the department pursuant to Section 8150.7.

(b) Whenever the department, under Section 8150.7, establishes a quota of 2,500 tons or more for the sardine fishery, the quota for dead bait provided for in subdivision (a) shall be 500 tons.

SEC. 4. This act is an urgency statute necessary for the immediate

preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the Department of Fish and Game to more accurately adjust the percentage of sardines taken incidentally to other fishing operations for the current fishing season, it is necessary for this act to take effect immediately.

CHAPTER 934

An act to amend Section 15071 of the Health and Safety Code, relating to seismic safety.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 15071 of the Health and Safety Code is amended to read:

15071. New construction of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 15026 shall conform to the provisions of the latest edition of Title 24 of the California Code of Regulations. The statewide office, with the advice of the Building Safety Board, shall adopt and administer regulations for the independent review of these structures.

The statewide office may also exempt from the plan review process or expedite those projects undertaken by an applicant for a hospital building which the statewide office determines do not materially alter the mechanical, electrical, architectural, or structural integrity of the facility. The statewide office shall set forth criteria to expedite projects or to implement any exemptions made pursuant to this paragraph.

The Legislature recognizes the relative safety of single-story, wood frame, and light steel frame construction for use in housing patients requiring skilled nursing and intermediate care services and it is, therefore, the intent of the Legislature to provide for reasonable flexibility in seismic safety standards for these structures.

The statewide office shall, by July 1, 1989, set forth and implement criteria to exempt from the plan review process or expedite those projects for alterations of buildings specified in paragraphs (2) and (3) of subdivision (b) of Section 15026, which may include, but are not limited to, renovations, remodeling, or installations of necessary equipment such as hot water heaters, air-conditioning units, dishwashers, laundry equipment, handrails, lights, television brackets, small emergency generators (up to 25 kilowatts), storage shelves, and similar plant operations equipment; and decorative materials such as wall coverings, floor coverings, and paint.

The statewide office shall include provisions for onsite field approvals by available office construction advisers and the preapproval of projects which comply with the requirements for which the office has developed standard architectural or engineering detail, or both standard architectural and engineering detail.

CHAPTER 935

An act to amend Sections 13862 and 13863 of, and to add Section 1191.15 to, the Penal Code, relating to crimes.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 1191.15 is added to the Penal Code, to read:

1191.15. (a) The court may permit the victim of any crime, or his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to file with the court a written, audiotaped, or videotaped statement expressing his or her views concerning the crime, the person responsible, and the need for restitution, in lieu of or in addition to such person personally appearing at the time of judgment and sentence. The court shall consider any such statement filed with the court prior to imposing judgment and sentence.

Whenever an audio or video statement is filed with the court, a written transcript of the tape shall also be provided by the person filing the statement, and shall be made available as a public record of the court after the judgment and sentence have been imposed.

(b) Whenever such a written, audio, or video statement is filed with the court, it shall remain sealed until the time set for imposition of judgment and sentence except that the court, the probation officer, and counsel for the parties may view and listen to such statements not more than two court days prior to the date set for imposition of judgment and sentence.

(c) No person may, and no court shall, permit any person to duplicate, copy, or reproduce by any audio or visual means any audiotaped or videotaped statement submitted to the court under the provisions of this section.

(d) Nothing in this section shall be construed to prohibit the prosecutor from representing to the court the views of the victim or his or her parent or guardian or the next of kin.

(e) In the event the court permits an audio or video statement to be filed, the court shall not be responsible for providing any equipment or resources needed to assist the victim in preparing the statement.

SEC. 2. Section 13862 of the Penal Code is amended to read:

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

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

(1) Drug traffic intervention programs.

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

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

(4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. However, if the agency receiving funds under this chapter is a city agency and the program does not involve any county agency, or if a county agency is involved and the county board of supervisors consents, the committee shall be established and appointed by the city council. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board or city council. The committee shall be composed of, at a minimum, the following:

(A) Local law enforcement executives.

(B) School district executives.

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

(D) Parents.

(E) Students.

(F) School peace officers.

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

(H) Drug prevention program executives.

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

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

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

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

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

SEC. 3. Section 13863 of the Penal Code is amended to read:

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

(a) The State Suppression of Drug Abuse in Schools Advisory Committee shall be composed of two police chiefs, two sheriffs, two district attorneys, one attorney primarily engaged in criminal defense, one representative of parent groups, one representative of the Department of Alcohol and Drug Programs, one county drug program administrator designated pursuant to Section 11962 of the Health and Safety Code, a school peace officer, and a representative of community-based drug abuse programs, all of whom are appointed by the Governor. In addition, the Attorney General shall designate one member representing the Department of Justice and the Superintendent of Public Instruction shall designate four members, one representing the State Department of Education, and three schoolsite personnel. Staff services to the committee shall be provided by the Executive Director of the Office of Criminal Justice Planning. Committee members shall be reimbursed for actual expenses involved in the conduct of committee business. The committee shall review applications for grant awards and shall recommend approval for those applications which are deemed appropriate and are consistent with the guidelines and administrative procedures established pursuant to this section and this chapter.

(b) Each committee member or his or her designee shall be personally present to cast a vote or be counted toward a quorum. An appointed member of the committee unable to attend any meeting may designate a representative to attend the meetings on his or her behalf. The representative shall be accorded full privilege to address the committee on any matter under consideration and shall have the right to vote on any motions entertained by the committee.

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

(d) These guidelines and administrative procedures shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer grants of funds pursuant to statutory authority. The guidelines and administrative procedures do not constitute rules, regulations, orders, or standards of general application.

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

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

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

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

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

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

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

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 936

An act relating to the Public Utilities Commission.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988.]

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) California's agricultural industry has faced rising costs of electricity over the last decade while the demands of agricultural electric customers for electricity over that same period has remained relatively stable.

(2) These demand, growth, and operational characteristics of the agricultural class of electric customers are of great importance in the setting of agricultural rates.

(3) Upcoming general rate cases for electrical corporations represent an opportunity for these issues to be addressed and for a final resolution of the agricultural electricity issue.

(b) It is, therefore, the intent of the Legislature in enacting this act to ensure that the demand, growth, and operational characteristics of agricultural electric customers and rural residential customers are given consideration in an appropriate proceeding when an investigation of these issues is conducted.

SEC. 2. (a) The Public Utilities Commission shall investigate the existing methods of allocation of revenues and expenses to customer classes in the establishment of electric rates, including, but not limited to, rates for agricultural classes of electric customers and rural residential customers.

(b) The investigation shall include, but not be limited to, all of the following:

(1) An examination of the allocation of expenses by the commission for purposes of establishing rates, with particular consideration and comparison of equipment and facilities used in urban service and that which is used in rural service and of equipment and facilities used for overhead transmission and distribution and that which is used in underground transmission and distribution. This examination shall include a statistical work order analysis of rural overhead facilities as compared to urban overhead and underground facilities.

(2) A consideration of the marginal cost of electric plant capacity needed to serve customers requiring a consistently high usage as compared to customers whose high usage is seasonal only.

(3) A consideration of the financial impacts of access- and demand-related costs upon nongrowth classes of electric service which the electrical corporations have incurred as a result of classes of service which have been experiencing growth.

(4) An examination and consideration of various methods of allocating the difference between an electrical corporation's marginal costs and its revenue requirements, including, but not limited to, a discussion of how each of these methods should be accounted for in the corporation's rate structure.

(c) The commission may conduct the investigation in the next scheduled general rate case for the electrical corporations affected by this act, or in another regularly scheduled proceeding involving those corporations. The commission shall report to the Legislature on its conclusions within 30 days of completion of the investigation, but not later than December 31, 1989.

CHAPTER 937

An act to add Section 2197 to, and to add and repeal Section 2197.5 of, the Civil Code, relating to common carriers.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 2197 is added to the Civil Code, to read:

2197. (a) Liability for storage or equipment rental charges assessed against a motor carrier by a railroad or steamship company shall be as follows if the charges arise out of a delay caused by the consignor or consignee of the freight:

(1) The consignor is liable to the motor carrier for the charges if the consignor caused the delay.

(2) The consignee is liable to the motor carrier for the charges if the consignee caused the delay.

(b) Nothing in this section shall affect the rights, duties, and obligations between a railroad or steamship company and a motor carrier.

SEC. 2. Section 2197.5 is added to the Civil Code, to read:

2197.5. (a) In addition to the liability established by Section 2197, the consignee is liable to the motor carrier for the charges if the freight is shipped prepaid and the delay was caused by either the consignor or the consignee.

(b) Nothing in this section shall affect the rights, duties, and obligations between a railroad or steamship company and a motor carrier.

(c) This section shall remain in effect only until January 1, 1993, and as that date is repealed, unless a later enacted statute, which is enacted before January 1, 1993, deletes or extends that date.

CHAPTER 938

An act to add Sections 20017.81, 20803.94, and 22013.75 to the Government Code, relating to the Public Employees' Retirement System, and making an appropriation therefor.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 20017.81 is added to the Government Code, to read:

20017.81. "State safety member" also includes officers and employees with the State Department of Mental Health in the following classifications:

Classification Code	Classification Title
8254	Prelicensed Psychiatric Technician (forensic facility)
8253	Psychiatric Technician (forensic facility)
8252	Senior Psychiatric Technician (forensic facility)

"State safety member" also includes an officer or employee of the State Department of Mental Health at Patton State Hospital or Atascadero State Hospital, who either is excluded from the definition of state employee in subdivision (c) of Section 3513, is a supervisory employee as defined by Section 3522.1, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service. An officer or employee may be a state safety member under this paragraph only if the person has responsibility for the direct supervision of state safety personnel specified in the classifications listed in this section and if the State Personnel Board determines that these officers and employees meet the state safety membership criteria established pursuant to Section 18717. The Department of Personnel Administration shall determine which classes meet the above conditions and report its findings to the Public Employees' Retirement System, whereupon the change in membership categories shall take effect.

Any person so designated pursuant to this section may elect, within 90 days of notification by the board, to remain subject to the miscellaneous service retirement benefit and contribution rate by filing an irrevocable notice of election with the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21251.13 only for service also included in the federal system.

SEC. 2. Section 20803.94 is added to the Government Code, to

read:

20803.94. "State safety service" does not include service in classes specified in Section 20017.81 prior to the effective date of that section.

SEC. 3. Section 22013.75 is added to the Government Code, to read:

22013.75. "Policeman," as used in this part, also includes persons employed in positions identified in Section 20017.81, provided that designation is not contrary to any definition, ruling, or regulation relating to the term "policeman" issued by the federal agency for the purposes of Section 218(d)(5)(A) of the Social Security Act (42 U.S.C. Sec. 418(d)(5)(A)).

CHAPTER 939

An act to amend Sections 23103.5, 23185, and 23190 of the Vehicle Code, relating to driving offenses.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 23103.5 of the Vehicle Code is amended to read:

23103.5. (a) When the prosecution agrees to a plea of guilty or nolo contendere to a charge of a violation of Section 23103 in satisfaction of, or as a substitute for, an original charge of a violation of Section 23152, the prosecution shall state for the record a factual basis for the satisfaction or substitution, including whether or not there had been consumption of any alcoholic beverage or ingestion or administration of any drug, or both, by the defendant in connection with the offense. The statement shall set forth the facts which show whether or not there was a consumption of any alcoholic beverage or the ingestion or administration of any drug by the defendant in connection with the offense.

(b) The court shall advise the defendant, prior to the acceptance of the plea offered pursuant to a factual statement pursuant to subdivision (a), of the consequences of a conviction of a violation of Section 23103 as set forth in subdivision (c).

(c) If the court accepts the defendant's plea of guilty or nolo contendere to a charge of a violation of Section 23103 and the prosecutor's statement under subdivision (a) states that there was consumption of any alcoholic beverage or the ingestion or administration of any drugs by the defendant in connection with the offense, the resulting conviction shall be a prior offense for the purposes of Section 23165, 23170, 23175, 23185, 23190, or 23200, as specified in those sections.

(d) The court shall notify the Department of Motor Vehicles of each conviction of Section 23103 which shall be a prior offense for purposes of Section 23165, 23170, 23175, 23185, 23190, or 23200, as provided in this section.

SEC. 2. Section 23185 of the Vehicle Code is amended to read:

23185. If any person is convicted of a violation of Section 23153 and the offense occurred within seven years of a separate violation of Section 23103, as specified in Section 23103.5 and which occurred on or after January 1, 1982, 23152, or 23153 which resulted in a conviction, that person shall be punished by imprisonment in the state prison, or in the county jail for not less than 120 days nor more than one year, and by a fine of not less than three hundred ninety dollars ($390) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (4) of subdivision (a) of Section 13352.

SEC. 3. Section 23190 of the Vehicle Code is amended to read:

23190. If any person is convicted of a violation of Section 23153 and the offense occurred within seven years of two or more separate violations of Section 23103, as specified in Section 23103.5 and which occurred on or after January 1, 1982, 23152, or 23153, or any combination of these violations which resulted in convictions, that person shall be punished by imprisonment in the state prison for a term of two, three, or four years and by a fine of not less than one thousand fifteen dollars ($1,015) nor more than five thousand dollars ($5,000). The person's privilege to operate a motor vehicle shall be revoked by the Department of Motor Vehicles pursuant to paragraph (6) of subdivision (a) of Section 13352.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 5. This act shall become operative on July 1, 1989.

CHAPTER 940

An act to amend Section 39667 of, and to add Section 39663 to, the Health and Safety Code, relating to toxic air contaminants.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988]

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

SECTION 1. The Legislature finds and declares:

(a) That the State Air Resources Board has classified, or has under

review for classification, several substances as toxic air contaminants which are emitted primarily from vehicular sources.

(b) That, with respect to some of these substances, the state board and the Scientific Review Panel on Toxic Air Contaminants have been unable to identify a level of exposure below which no adverse health effects may be expected to occur.

(c) That existing state law requires that public exposure to toxic air contaminants for which no threshold of exposure has been identified should be reduced to the lowest level achievable through the application of the best available control technology or more effective control methods.

(d) That, in order to reduce public exposure to known and suspected toxic air contaminants emitted from vehicular sources through the application of the best available control technology or more effective control methods, it is necessary to clarify and enhance the authority of the state board with respect to the control of vehicular fuel composition and new vehicle emissions.

(e) That, in order to reduce public exposure to harmful toxic air contaminants as expeditiously as possible, and to provide affected industries with the necessary lead time for compliance with regulations, it is necessary for the Legislature to direct the state board to adopt, as soon as practicable, regulations which the state board determines to be necessary and technologically feasible.

SEC. 2. Section 39663 is added to the Health and Safety Code, to read:

39663. (a) Not later than June 30, 1989, the state board shall hold a public hearing to review the potential nature, extent, and severity of public exposure to known and suspected toxic air contaminants emitted by vehicular sources in California. Prior to the hearing, the board shall prepare a report that includes the following:

(1) The identification of known and suspected toxic air contaminants emitted by vehicular sources, including, but not limited to, benzene, polycylic aromatic hydrocarbons, formaldehyde, and diesel smoke.

(2) The identification of the probable sources and precursors of these toxic air contaminants, based on available data.

(3) An estimate of the level of exposure that may be occurring due to emissions of all known and suspected toxic air contaminants from vehicular sources.

(4) The potential risk to public health associated with the estimated level of exposure, based on available unit risk factors.

(5) The identification of available and projected control measures which may reduce public exposure to known and suspected toxic air contaminants emitted by vehicular sources.

(b) Following the hearing, the state board shall reassess the pollutant review schedule under the toxic air contaminant program to determine whether sufficient emphasis has been placed on pollutants emitted by motor vehicles. The state board shall revise the schedule, as necessary, to give due weight to public health risks

caused or potentially caused by motor vehicle emissions.

(c) Not later than June 30, 1990, the state board shall hold a public hearing to consider a plan for reducing public exposure to known and suspected toxic air contaminants emitted by motor vehicles.

(d) Nothing in this section restricts the authority of the state board to adopt regulations to control toxic air contaminant emissions from motor vehicles or to delay the exercise of that authority.

SEC. 3. Section 39667 of the Health and Safety Code is amended to read:

39667. Based on its determinations pursuant to Section 39662 or 39663, the state board shall consider the adoption of revisions in the emission standards for vehicular sources and regulations specifying the content of motor vehicle fuel, in order to achieve the maximum possible reduction in public exposure to toxic air contaminants. Except for regulations affecting new motor vehicles which shall be based upon the most advanced technology feasible for the model year, regulations developed pursuant to this section shall be based on the utilization of the best available control technologies or more effective control methods, unless the state board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health. Those regulations may include, but are not limited to, the modification, removal, or substitution of vehicle fuel, vehicle fuel components, or fuel additives, or the required installation of vehicular control measures on new motor vehicles.

CHAPTER 941

An act to amend Sections 1640, 1641, 17089, and 27023 of, and to add Section 5357 to, the Elections Code, relating to elections.

[Approved by Governor September 15, 1988 Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Section 1640 of the Elections Code is amended to read:

1640. Following the appointment of members of precinct boards, the clerk shall instruct inspectors so appointed concerning their duties in connection with the conduct of the election which instruction shall include (a) a summary of the rights of voters, (b) the lawful grounds for challenge, (c) the proper tabulating procedures, (d) specific directions that the polls shall be kept open to the public during voting hours and throughout the period required for the tabulation of the vote, (e) a digest of election laws, and (f) such other subjects as shall assist the inspectors in carrying out their duties.

No person shall serve as an inspector of a precinct board at the election unless instruction has been received in accordance with this section, except that in the case of the emergency disability of a regular inspector, substitute inspectors shall be given such instruction as may be found necessary by the clerk.

At the request of the clerk, the legislative body may contract with any qualified person or organization for purposes of instructing inspectors in accordance with this section.

SEC. 2. Section 1641 of the Elections Code is amended to read:

1641. Upon filing the list of names and addresses of those who have been appointed members of the precinct board, the clerk shall immediately mail or deliver to each voter so appointed, a notice stating the appointment and the position to which assigned, the penalty for failure to serve, and any other matter that the clerk determines.

SEC. 3. Section 5357 is added to the Elections Code, to read:

5357. A county clerk who is required, pursuant to this division, to examine signatures on an initiative, referendum, recall, nomination, or other election petition, may employ temporary assistants as required to complete the necessary procedure. The costs for the temporary assistants shall be paid by the jurisdiction in which the election on the proposition is intended to be held.

SEC. 4. Section 17089 of the Elections Code is amended to read:

17089. The statement of the result shall show:

(a) The total number of ballots cast.

(b) The number of votes cast at each precinct for each candidate and for and against each measure.

(c) The total number of votes cast for each candidate and for and against each measure

The statement of the result shall also show the number of votes cast in each city, Assembly district, congressional district, senatorial district, State Board of Equalization district, and supervisorial district located in whole or in part in the county, for each candidate for the offices of presidential elector and all statewide offices, depending on the offices to be filled, and on each statewide ballot proposition.

SEC. 5. Section 27023 of the Elections Code is amended to read:

27023. Within seven days after the filing of the notice of intention, the officer sought to be recalled may file with the clerk, or in the case of a state officer, the Secretary of State, an answer, in not more than 200 words, to the statement of the proponents. If an answer is filed, the officer shall, within seven days after the filing of the notice of intention, also serve a copy of it, by personal delivery or by certified mail, on one of the proponents named in the notice of intention. The answer shall include the preprinted name, signature, and business or residence address of the officer sought to be recalled.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local

agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 942

An act to amend Section 830.5 of the Penal Code, relating to peace officers.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Section 830.5 of the Penal Code, as amended by Chapter 386 of the Statutes of 1988, is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, or deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. Except as otherwise provided in this subdivision, the authority of the parole or probation officer shall extend only (1) to conditions of parole or of probation by any person in this state on parole or probation; (2) to the escape of any inmate or ward from a state or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his or her employment. A parole officer of the Department of Corrections, the Department of the Youth Authority, or the Youthful Offender Parole Board is authorized to carry firearms but only as determined by the director on a case-by-case or unit-by-unit basis and only under those terms and conditions specified by the director or chairperson.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or any medical technical assistant series employee

designated by the Director of Corrections or designated by the Director of Corrections and employed by the State Department of Mental Health to work in the California Medical Facility or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Youth Authority or any superintendent, supervisor, or employee having custodial responsibilities in an institution operated by a probation department, or any transportation officer of a probation department.

(c) The following persons may carry a firearm while not on duty: a parole officer of the Department of Corrections or the Department of the Youth Authority, a correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections. A parole officer of the Youthful Offender Parole Board may carry a firearm while not on duty only when so authorized by the chairperson of the board and only under the terms and conditions specified by the chairperson. Nothing in this section shall be interpreted to require licensure pursuant to Section 12025. The director or chairperson may deny or revoke for good cause a person's right to carry a firearm under this subdivision. That person shall, upon request, receive a hearing, as provided for in the negotiated grievance procedure between the exclusive employee representative and the Department of Corrections, the Department of the Youth Authority, or the Youthful Offender Parole Board, to review the director's or the chairperson's decision.

(d) Persons permitted to carry firearms pursuant to this section, either on or off duty, shall meet the training requirements of Section 832 and shall qualify with the firearm at least quarterly. It is the responsibility of the individual officer to maintain his or her eligibility to carry firearms off-duty.

CHAPTER 943

An act to add Chapter 3 (commencing with Section 1830) to Division 8 of the Military and Veterans Code, relating to POW/MIA Recognition Day, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Chapter 3 (commencing with Section 1830) is added to Division 8 of the Military and Veterans Code, to read:

CHAPTER 3. PRISONERS OF WAR AND MISSING IN ACTION

1830. In enacting this chapter, the Legislature recognizes all of the following:

(a) California citizens have fought for their nation in many wars.

(b) Hundreds of Californians who served in those wars were captured by the enemy or are missing in action.

(c) Two hundred forty-three Californians who served in the Vietnam War remain unaccounted for.

(d) Nine hundred family members of Vietnam era POW/MIAs reside in California.

(e) The uncertain fate of the 2,400 American citizens still held as POWs or listed as missing in action causes their families acute hardship and pain.

1831. (a) So that the people of California will not forget the sacrifices of those members of the United States armed forces who, after the termination of hostilities, remain prisoners of war or missing in action, September 16, 1988, and the third Friday of September of every year thereafter is and shall be known throughout California as POW/MIA Recognition Day.

(b) The Governor and the Legislature are authorized and requested to issue proclamations calling upon the people, schools, and local governments of California to recognize POW/MIA Recognition Day with appropriate ceremonies and activities.

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

In order to establish POW/MIA Recognition Day as quickly as possible so that the people of California will remember the sacrifices of those members of the United States armed forces who remain prisoners of war and missing in action, it is necessary that this act take effect immediately.

CHAPTER 944

An act to add Sections 77200.5 and 77202.5 to the Government Code, to add and repeal Section 1463.28 to the Penal Code, to amend Sections 97, 97.5, 98, and 11005 of, to add Sections 97.37, 97.38, 97.39, 97.52, and 99 6 to, and to repeal and add Section 97.35 of, the Revenue and Taxation Code, and to add Items 0250-101-159, 0250-111-001, 0420-102-001, 0450-101-001, and 0450-101-495 to the Budget Act of 1988 (Chapter 313 of the Statutes of 1988), relating to local government financing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 16, 1988.]

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

SECTION 1. Section 77200.5 is added to the Government Code, to read:

77200.5. (a) Notwithstanding Section 77200, the Controller shall reduce the block grant owing to the County of Contra Costa in each fiscal year by the sum of fifty thousand dollars ($50,000) and shall reduce the block grant owing to the County of Alameda in each fiscal year by the sum of fifty thousand dollars ($50,000).

(b) The amount of the reduction made each fiscal year pursuant to subdivision (a), shall be allocated by the Controller to an eligible city as defined in Section 97.52 of the Revenue and Taxation Code.

SEC. 2. Section 77202.5 is added to the Government Code, to read:

77202.5. (a) In any option year commencing with the 1989–90 fiscal year, in which the net county benefit for the County of Ventura is less than the sum of five million dollars ($5,000,000), increased each fiscal year by the same percentage adjustment as is applied to the block grant pursuant to Section 77201, the Controller shall allocate to the county a special supplemental subvention of vehicle license fee revenues pursuant to Section 11005 of the Revenue and Taxation Code in an amount equal to the amount by which the net county benefit is less than five million dollars ($5,000,000), as adjusted for the applicable fiscal year.

(b) For purposes of this section, the net county benefit for each fiscal year beginning in the 1989–90 fiscal year is the sum of the amount of the annual block grant to the county, as specified in Sections 77200 and 77201, and the supplemental block grant provided in subdivision (b) of 68206 for that fiscal year reduced by the amount subtracted from the county's proportionate share of property tax revenue pursuant to Section 97.38 of the Revenue and Taxation Code for that fiscal year.

SEC. 3. Section 1463.28 is added to the Penal Code, to read:

1463.28. (a) Notwithstanding any other provision of law, for each option county, as defined by Section 77004 of the Government Code, which has adopted the resolution specified in subdivision (b), that portion of fines and forfeitures, whether collected by the courts or by other processing agencies, which are attributable to an increase in the bail amounts adopted subsequent to the resolution pursuant to subdivision (c) or (d) of Section 1269b which would otherwise be divided between the county and cities within the county shall be deposited into the county general fund up to the annual limit listed in subdivision (b) for that county. Fine and forfeiture increments which exceed the specified annual limit shall be divided between the county and the cities within the county as otherwise provided by law. Until December 31, 1992, the scheduled bail amounts in such a

county may exceed any limit established pursuant to subdivision (d) of Section 1269b.

(b) The counties which may adopt a resolution directing that future increments in fines and forfeitures as specified in subdivision (a) be deposited in the county general fund and the annual limit applicable to those counties is as follows:

County	Annual Limit
Alpine	$ 300,000
Amador	200,000
Butte	900,000
Calaveras	300,000
Contra Costa	100,000
Del Norte	200,000
Fresno	700,000
Humboldt	200,000
Kings	300,000
Lake	400,000
Lassen	200,000
Los Angeles	15,000,000
Madera	600,000
Mariposa	200,000
Mendocino	600,000
Modoc	200,000
Mono	200,000
Plumas	200,000
San Benito	300,000
San Diego	5,200,000
San Joaquin	1,000,000
Santa Clara	3,200,000
Sierra	300,000
Stanislaus	1,900,000
Sutter	800,000
Trinity	200,000
Tulare	2,000,000
Tuolumne	400,000
Yolo	700,000
Yuba	900,000

(c) This section shall remain in effect only until December 31, 1992, and on that date is repealed. After that date fines and forfeitures shall be distributed as otherwise provided by law.

SEC. 4. Section 97 of the Revenue and Taxation Code is amended to read:

97. Except as otherwise provided in Sections 97.3, 97.32, 97.35, 97.37, and 97.38 for the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for

in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99 or 99.4.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment."

(d) For purposes of this section, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

SEC. 5. Section 97.35 of the Revenue and Taxation Code is repealed.

SEC. 6. Section 97.35 is added to the Revenue and Taxation Code, to read:

97.35. (a) In each county, other than the County of Mono and the County of Ventura, having within its boundaries a qualifying city, the computations made pursuant to Section 97, for the 1989–90 fiscal year and each fiscal year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to

this section and Section 97 in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives

a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(G) For the seventh fiscal year and each fiscal year thereafter in which the city receives a distribution pursuant to this section, 7 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city, except a qualifying city as defined in Section 97.3, which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1988–89 fiscal year which is less than 7 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue determined in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.07, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.07, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city is to receive a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of property tax revenue which was exchanged between the county and the qualifying city as a result of negotiation

pursuant to Section 99.6.

(2) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(3) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts which are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(g) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e) and (f), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount which exceeds the city's appropriations limit.

(h) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(i) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section which is less than the amount the city would have been allocated without the application of the TEA formula.

(j) Notwithstanding any other provision of this section, the auditor shall not distribute any amount determined pursuant to this section to any qualifying city which has in the prior fiscal year used any revenues or issued bonds for the construction, acquisition, or development, of any facility which is defined in Section 103(b)(4), 103 (b)(5), or 103(b)(6) of the Internal Revenue Code of 1954 prior to the enactment of the Tax Reform Act of 1986 (P.L. 99-514) and is no longer eligible for tax exempt financing.

(k) A qualifying city, as defined in subdivision (d), shall not receive an allocation pursuant to this section in the 1989–90 fiscal year or in any succeeding fiscal year with respect to which the county in which the qualifying city is located has failed to notify the state pursuant to Sections 77300 and 77301 of the Government Code of the county's intent to opt into the system established by the Brown-Presley Trial Court Funding Act of 1988 for that fiscal year.

(*l*) Each qualifying city shall receive its fiscal year allocation pursuant to this section in the first fiscal year with respect to which the county in which it is located has notified the state of its intent to opt into the system.

SEC. 7. Section 97.37 is added to the Revenue and Taxation Code, to read:

97.37. (a) In the County of Mono, the computations made pursuant to Section 97, for the 1989–90 fiscal year and each year thereafter, shall be modified as follows:

With respect to tax rate areas within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Except as otherwise provided in this section, each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount determined pursuant to the TEA formula to all tax rate areas within the city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of the property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 97 in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall, for the 1989–90 fiscal year and each year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the total amount of funds allocated in each fiscal year to a community redevelopment agency

in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount determined in paragraph (5).

(D) For the fourth fiscal year in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(E) For the fifth fiscal year in which the qualifying city receives a distribution pursuant to this section, 5 percent of the amount determined in paragraph (5).

(F) For the sixth fiscal year and each fiscal year thereafter in which the qualifying city receives a distribution pursuant to this section, 6 percent of the amount determined in paragraph (5).

(d) "Qualifying city" means any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1988–89 fiscal year which is less than 6 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.06, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.06, the city is not a qualifying city.

(e) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(f) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city receives a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the sum of the following:

(1) The amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(2) The amount of property tax revenue received pursuant to this chapter in excess of the amount allocated for the 1986–87 fiscal year by all special districts which are governed by the city council of the qualifying city or whose governing body is the same as the city council of the qualifying city with respect to all tax rate areas within the boundaries of the qualifying city.

(g) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (e) and (f), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount which exceeds the city's appropriations limit.

(h) The amount not distributed to the tax rate areas of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(i) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section which is less than the amount the city would have been allocated without the application of the TEA formula.

(j) A qualifying city, as defined in subdivision (d), shall not

receive an allocation pursuant to this section in the 1989–90 fiscal year or in any succeeding fiscal year with respect to which the county in which the qualifying city is located has failed to notify the state pursuant to Sections 77300 and 77301 of the Government Code of the county's intent to opt into the system established by the Brown-Presley Trial Court Funding Act of 1988 for that fiscal year.

(k) Each qualifying city shall receive its fiscal year allocation pursuant to this section in the first fiscal year with respect to which the county in which it is located has notified the state of its intent to opt into the system.

SEC. 8. Section 97.38 is added to the Revenue and Taxation Code, to read:

97.38. (a) In the County of Ventura, the computations made pursuant to Section 97, for the 1989–90 fiscal year and each year thereafter, shall be modified as follows:

With respect to tax rate areas, except excluded tax rate areas, within the boundaries of a qualifying city, there shall be excluded from the aggregate amount of "property tax revenue allocated pursuant to this chapter to local agencies, other than for a qualifying city, in the prior fiscal year," an amount equal to the sum of the amounts calculated pursuant to the TEA formula.

(b) (1) Each qualifying city shall, for the 1989–90 fiscal year and each fiscal year thereafter, be allocated by the auditor an amount determined pursuant to the TEA formula.

(2) For each qualifying city, the auditor shall, for the 1989–90 fiscal year and each year thereafter, distribute the amount determined pursuant to the TEA formula to all tax rate areas, except excluded tax rate areas, within that city in proportion to each tax rate area's share of the total assessed value in the city for the applicable fiscal year, and the amount so determined shall be subtracted from the county's proportionate share of the property tax revenue for that fiscal year within those tax rate areas.

(3) After making the allocations pursuant to paragraphs (1) and (2), but before making the calculations pursuant to Section 98, the auditor shall, for all tax rate areas, except excluded tax rate areas, in the qualifying city, calculate the proportionate share of property tax revenue allocated pursuant to this section and Section 97 in the 1989–90 fiscal year and each fiscal year thereafter to each jurisdiction in the tax rate area.

(4) In lieu of making the allocations of annual tax increment pursuant to subdivision (e) of Section 98, the auditor shall for the 1989–90 fiscal year and each fiscal year thereafter, allocate the amount of property tax revenue determined pursuant to subdivision (d) of Section 98 to jurisdictions in the tax rate area, except an excluded tax rate area, using the proportionate shares derived pursuant to paragraph (3).

(5) For purposes of the calculations made pursuant to Section 97, in the 1990–91 fiscal year and each fiscal year thereafter, the amounts that would have been allocated to all tax rate areas, except excluded

tax rate areas, of qualifying cities pursuant to this subdivision shall be deemed to be the "amount of property tax revenue allocated to those tax rate areas in the prior fiscal year."

(c) "TEA formula" means the Tax Equity Allocation formula, and shall be calculated by the auditor for each qualifying city as follows:

(1) For the 1988–89 fiscal year and each fiscal year thereafter, the auditor shall determine the total amount of property tax revenue to be allocated to all jurisdictions in all tax rate areas, except excluded tax rate areas, within the qualifying city, before the allocation and payment of funds in that fiscal year to a community redevelopment agency within the qualifying city, as provided in subdivision (b) of Section 33670 of the Health and Safety Code.

(2) The auditor shall determine the amount of funds allocated in each fiscal year to those tax rate areas, except excluded tax rate areas, within a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(3) (A) The auditor shall determine the total amount of funds paid in each fiscal year by a community redevelopment agency within the city to jurisdictions other than the city pursuant to subdivision (b) of Section 33401 and Section 33676 of the Health and Safety Code, and the cost to the redevelopment agency of any land or facilities transferred and any amounts paid to jurisdictions other than the city to assist in the construction or reconstruction of facilities pursuant to an agreement entered into under Section 33401 or 33445.5 of the Health and Safety Code.

(B) Of the total amount determined in subparagraph (A), the auditor shall compute a proportionate amount to be attributed to all tax rate areas, except excluded tax rate areas, within the community redevelopment agency. That proportionate amount shall be equal to that proportion which the amount determined in paragraph (2) in each fiscal year bears to the total amount of funds allocated in each fiscal year to a community redevelopment agency in accordance with subdivision (b) of Section 33670 of the Health and Safety Code.

(4) The auditor shall subtract the amount determined in subparagraph (B) of paragraph (3) from the amount determined in paragraph (2).

(5) The auditor shall subtract the amount determined in paragraph (4) from the amount determined in paragraph (1).

(6) The amount computed in paragraph (5) shall be multiplied by the following percentages in order to determine the TEA formula amount to be distributed to the qualifying city in each fiscal year:

(A) For the first fiscal year in which the qualifying city receives a distribution pursuant to this section, 1 percent of the amount determined in paragraph (5).

(B) For the second fiscal year in which the qualifying city receives a distribution pursuant to this section, 2 percent of the amount determined in paragraph (5).

(C) For the third fiscal year in which the qualifying city receives a distribution pursuant to this section, 3 percent of the amount

determined in paragraph (5).

(D) For the fourth fiscal year and each fiscal year thereafter in which the qualifying city receives a distribution pursuant to this section, 4 percent of the amount determined in paragraph (5).

(d) For purposes of this section, "excluded tax rate area" means either of the following:

(1) Any tax rate area included in territory annexed by the qualifying city and allocated a prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(2) Any tax rate area described in paragraph (1) which was detached from the county library district and which is also allocated an additional prescribed percentage of property tax revenue pursuant to an existing agreement between the qualifying city and the county.

(e) (1) For any fiscal year in which the county opts into the system established by the Brown-Presley Trial Court Funding Act of 1988, all existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas described in subdivision (d) shall remain in force.

(2) For any fiscal year in which the county opts into the system established by the Brown-Presley Trial Court Funding Act of 1988, all existing agreements between the qualifying city and the county covering the allocation of property tax revenues to tax rate areas which were detached from the county library district but are not included in territory which was annexed by the qualifying city shall remain in force.

(3) All allocations to those tax rate areas described in subdivision (d), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 97 and Section 98.

(4) All allocations to those tax rate areas described in paragraph (2), including allocations of annual tax increments, made pursuant to the existing agreements between the qualifying city and the county shall be governed by subdivision (a) of Section 97 and Section 98. However, the tax rate areas referred to in this paragraph shall also be distributed an amount of property tax revenue determined pursuant to the TEA formula which is over and above the amount allocated as provided in the preceding sentence.

(f) "Qualifying city" means any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1988–89 fiscal year which is less than 4 percent of the amount of property tax revenue computed as follows:

(1) The auditor shall determine the total amount of property tax revenue allocated to all tax rate areas, except excluded tax rate areas, in the city in the 1988–89 fiscal year.

(2) The auditor shall subtract the amount in the 1988–89 fiscal year

determined in paragraph (3) of subdivision (c) from the amount determined in paragraph (2) of subdivision (c).

(3) The auditor shall subtract the amount determined in paragraph (2) from the amount of property tax revenue in paragraph (1) of subdivision (c).

(4) The auditor shall divide the amount of property tax revenue determined in paragraph (1) of this subdivision by the amount of property tax revenue determined in paragraph (3) of this subdivision.

(5) If the quotient determined in paragraph (4) of this subdivision is less than 0.04, the city is a qualifying city. If the quotient determined in that paragraph is equal to or greater than 0.04, the city is not a qualifying city.

(g) The auditor may assess each qualifying city its proportional share of the actual costs of making the calculations required by this section, and may deduct that assessment from the amount allocated pursuant to subdivision (b). For purposes of this subdivision, a qualifying city's proportional share of the auditor's actual costs shall not exceed the proportion it receives of the total amounts excluded in the county pursuant to subdivision (a).

(h) Notwithstanding subdivision (b), in any fiscal year in which a qualifying city receives a distribution pursuant to this section, the auditor shall reduce the actual amount distributed to the qualifying city by the amount of revenue not collected by the qualifying city in the first fiscal year following the city's reduction after January 1, 1988, of the tax rate or tax base of any locally imposed general or special tax. The amount so computed by the auditor shall constitute a reduction in the amount of property tax revenue distributed to the qualifying city pursuant to this section in each succeeding fiscal year. That amount shall be aggregated with any additional amount computed pursuant to this paragraph as the result of the city's reduction in any subsequent year of the tax rate or tax base of the same or any other locally imposed general or special tax.

(i) If the auditor determines that the amount to be distributed to a qualifying city pursuant to subdivision (b), as modified by subdivisions (g) and (h), would result in a qualifying city having proceeds of taxes in excess of its appropriation limit, the auditor shall reduce the amount, on a dollar-for-dollar basis, by the amount which exceeds the city's appropriations limit.

(j) The amount not distributed to tax rate areas, except excluded tax rate areas, of a qualifying city as a result of this section shall be distributed by the auditor to the county.

(k) Notwithstanding any other provision of this section, no qualifying city shall be distributed an amount pursuant to this section which is less than the amount the city would have been allocated without the application of the TEA formula.

(*l*) The amount not distributed as a result of this section to the tax rate areas, except excluded tax areas, in each qualifying city shall be allocated by the auditor to the county.

(m) A qualifying city, as defined in subdivision (d), shall not receive an allocation pursuant to this section in the 1989–90 fiscal year or in any succeeding fiscal year with respect to which the county in which the qualifying city is located has failed to notify the state pursuant to Sections 77300 and 77301 of the Government Code of the county's intent to opt into the system established by the Trial Court Funding Act of 1985 for that fiscal year.

(n) Each qualifying city shall receive its first fiscal year allocation pursuant to this section in the first fiscal year with respect to which the county in which it is located has notified the state of its intent to opt into the system.

SEC. 9. Section 97.39 is added to the Revenue and Taxation Code, to read:

97.39. For purposes of Section 97.35, the definition of qualifying city contained in subdivision (d) of that section shall not include the City of Foster City.

SEC. 10. Section 97.5 of the Revenue and Taxation Code is amended to read:

97.5. Except as otherwise provided in Section 97.51 or 97.52, for the purpose of apportioning property tax revenues each fiscal year:

(a) The amount of property tax revenue allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97, modified by any adjustments made pursuant to Section 99 or 99.4, and subdivision (e) of Section 98, shall be combined to compute the total amount of property tax revenue allocated to the jurisdiction with respect to the tax rate area.

(b) The total amount of property tax revenue allocated to each jurisdiction with respect to all tax rate areas as determined pursuant to subdivision (a) shall be added to compute a total amount of property tax revenue for a jurisdiction in all tax rate areas.

(c) Each amount determined pursuant to subdivision (b) shall be divided by the total of all such amounts computed. The quotient determined shall be used to apportion actual property tax collections and shall be known as the "property tax apportionment factors."

(d) For 1980–81 and each year thereafter, the property tax apportionment factors for the current year shall be used to apportion the total amount paid to a county annually for reimbursement of tax loss from business inventory exemptions pursuant to Chapter 1150 of the Statutes of 1979.

(e) For 1980–81 and each year thereafter, prior years' property tax revenues shall be apportioned using the factors determined pursuant to subdivision (c) for the immediately preceding fiscal year.

(f) For 1979–80, prior years' property tax revenues shall be apportioned using the tax allocation factors computed pursuant to Section 26912 of the Government Code.

(g) Notwithstanding the provisions of this section property tax revenues may be apportioned by tax rate area.

(h) Supplemental property tax revenues for 1985–86 and each year thereafter, generated by Sections 75 to 75.80, inclusive, shall be

apportioned using the property tax apportionment factors for the current year.

SEC. 11. Section 97.52 is added to the Revenue and Taxation Code, to read:

97.52. (a) Notwithstanding any other provision of this chapter, in any county with an eligible city, the apportionment of property tax revenues made pursuant to Section 97.5, for the 1988–89 fiscal year only, shall be modified as follows:

(1) The auditor shall increase the total amount of property tax revenues apportioned to an eligible city by an amount equal to 20 percent of the "additional amount" provided to that city pursuant to paragraph (2) of subdivision (h) of Section 95.

(2) The auditor shall reduce by the amount determined in paragraph (1) the total amount of property tax revenues apportioned to an eligible local agency authorized to maintain vehicular recreation areas pursuant to Section 5541.1 of the Public Resources Code.

(b) For the 1988–89 fiscal year only, the allocation of annual tax increment pursuant to subdivision (e) of Section 98 to the eligible city and the eligible local agency shall be adjusted correspondingly to reflect the modifications made by subdivision (a).

(c) For purposes of the calculations made pursuant to Section 97, in the 1989–90 fiscal year and fiscal years thereafter, the amounts that are allocated to any eligible city and any eligible local agency pursuant to subdivision (a) shall be included in the "amount of property tax revenue allocated pursuant to this chapter in the prior year."

(d) For the purposes of this section, "eligible city" means any city which received an additional amount of state assistance payments in accordance with paragraph (2) of subdivision (h) of Section 95.

(e) The amount allocated to an eligible city pursuant to this section shall be expended for zoo purposes only.

SEC. 12. Section 98 of the Revenue and Taxation Code is amended to read:

98. The difference between the total amount of property tax revenue computed each year using the equalized assessment roll and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be known and may be cited as the annual tax increment, and shall be allocated, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, and modified by any adjustments made pursuant to Section 99 or 99.4, as follows:

(a) For each tax rate area, the auditor shall determine an amount of property tax revenue by multiplying the value of the change in taxable assessed value from the equalized assessment roll for the prior fiscal year to the equalized assessment roll for the current fiscal year by a tax rate of four dollars ($4) per one hundred dollars ($100) of assessed value. When computing the change in taxable assessed

value between the 1980–81 fiscal year and the 1981–82 fiscal year, the assessed values for the 1980–81 fiscal year shall be multiplied by four. Starting with the 1981–82 fiscal year, the tax rate used in this calculation shall be one dollar ($1) per one hundred dollars ($100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all such amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 97 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of Section 97.3 in the 1984–85 fiscal year only, in subdivision (d) of Section 97.32 in the 1985–86 fiscal year only, and in paragraph (4) of subdivision (b) of Sections 97.35, 97.37, and 97.38 in the 1989–90 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all such jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.4.

(f) For the 1979–80 fiscal year only:

(1) The amount of property tax revenue, attributable to the tax rate area, for each jurisdiction for the prior fiscal year shall be considered to be the total property tax revenue for such jurisdiction for fiscal year 1978–79 allocated among tax rate areas in the same proportion which the taxable assessed valuation for fiscal year 1978–79 in each tax rate area bears to the total taxable assessed valuation of all tax rate areas in which the jurisdiction was located in fiscal year 1978–79.

(2) Property tax revenue received by local agencies in the prior fiscal year shall include the amount of state assistance payments allocated to each local agency, allocated among tax rate areas in proportion to the jurisdiction's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(3) Property tax revenue received by school entities in the prior fiscal year shall be reduced by the adjustments required by subdivision (b) of Section 96, allocated among tax rate areas, in proportion to the school entity's taxable assessed valuation within each tax rate area for the 1978–79 fiscal year.

(g) Any agency which has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall

not receive any allocation pursuant to this section for the following fiscal year.

(h) For the purpose of this section, for the 1980–81 fiscal year, the 1979–80 taxable assessed valuation shall be adjusted to delete the amounts reflecting prior years' taxable business inventories.

SEC. 13. Section 99.6 is added to the Revenue and Taxation Code, to read:

99.6. (a) For the purposes of Section 99, in the case of a jurisdictional change which results in a qualifying city, as defined in Section 97.35, providing its own fire protection services in accordance with Section 25643 of the Government Code in lieu of the county providing those services, the negotiated exchange of property tax revenues between the county and the qualifying city pursuant to subdivision (c) of Section 99 as a result of that jurisdictional change may also provide for a negotiated adjustment in the amount of property tax revenue distributed by the auditor to the qualifying city in accordance with Section 97.35. The negotiated adjustment may be made in any amount which does not exceed the amount of property tax revenue exchanged between the county and the qualifying city.

(b) This section applies only to exchanges of property tax revenue affecting the County of Riverside and qualifying cities within the county.

SEC. 13.5. Section 11005 of the Revenue and Taxation Code is amended to read:

11005. (a) After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving the amount determined necessary by the Pooled Money Investment Board to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, commencing with the 1989–90 fiscal year, the Controller shall deduct that amount which is necessary to make the allocation provided for in Section 77202.5 of the Government Code. Eighty-one and one-quarter percent of the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the manner provided by subdivisions (c) and (d).

(b) Eighteen and three-quarters percent of the balance shall be allocated, as follows:

(1) (A) Commencing with the 1988–89 fiscal year, the Controller shall allocate to each city that existed but did not levy a property tax in the 1977–78 fiscal year, other than for voter-approved indebtedness, an amount equal to the total amount which each of those cities would have received in that fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and Section 26483 of this code, as if those

sections were operative in that fiscal year in the form in which they existed on June 1, 1981. For each fiscal year thereafter, the Controller shall increase the amount for each city computed pursuant to this paragraph by the percent by which the revenue to the Motor Vehicle License Fee Account increased over the revenue for the previous fiscal year.

(B) (i) For each fiscal year following the 1988–89 fiscal year in which a city subject to subparagraph (A) receives a distribution of property tax revenue pursuant to Section 97.35, 97.37, or 97.38, the amount to be allocated to the city pursuant to subparagraph (A) shall be reduced by the amount of the distribution made pursuant to those sections.

(ii) No allocation shall be made to a city pursuant to subparagraph (A) in the first fiscal year in which the amount distributed to a city pursuant to Section 97.35, 97.37, or 97.38 equals or exceeds the amount that would have been allocated to that city pursuant to subparagraph (A) or in any fiscal year thereafter.

(iii) Any amount not allocated to a city pursuant to subparagraph (A) as a result of the operation of this subparagraph shall be allocated to eligible cities in accordance with clause (iv).

(iv) Commencing with the 1989–90 fiscal year, the Controller shall allocate the amount determined in clause (iii) for each fiscal year to each eligible city in the proportion that the population of each eligible city bears to total population of all eligible cities.

For purposes of this clause, "eligible city" means any city which incorporated prior to June 5, 1987, and had an amount of property tax revenue allocated to it pursuant to subdivision (a) of Section 97 in the 1987–88 fiscal year which is less than 10 percent of the amount of property tax revenue computed for the 1987–88 fiscal year in accordance with the method described in subdivision (c) of Section 97.35.

The auditor shall notify the Controller of his or her determination of those cities within the county which are eligible cities.

(2) Each month the Controller shall allocate the remainder of the amount determined pursuant to this subdivision to counties and cities and counties in an amount for each county and city and county equal to the revenue received in the 1982–83 fiscal year pursuant to former Section 16111, subdivision (c) of former Section 16113, and former Section 16113.7 of the Government Code. These amounts shall be determined by the Controller with the concurrence of the Director of Finance. The Controller shall allocate any remaining amount determined pursuant to this subdivision to counties and cities and counties in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined pursuant to subdivision (d).

(c) Fifty percent of the payments required by subdivision (a) shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears

to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the city. In the case of unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit, the population research unit shall determine the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit.

(d) Fifty percent of the payments required by subdivision (a) shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit. For the purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit, or as determined by Section 11005.6.

(e) Money disbursed by the Controller to cities and counties pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

(f) Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of the certification.

SEC. 14 It is the intent of the Legislature that Section 13 of this act apply only to those qualifying cities, as defined in Section 97.35 of the Revenue and Taxation Code, within the County of Riverside which have notified the county that they are providing their own fire protection services in lieu of the county fire protection district providing those services.

SEC. 15. Section 0250-101-159 is added to Section 2.00 of the

Budget Act of 1988, to read:

0250-101-159—For local assistance, Judicial Council, for trial court improvement grants pursuant to Section 77207 of the Government Code, payable from the Trial Court Improvement Fund 1,000,000

SEC. 16. Item 0250-111-001 is added to Section 2.00 of the Budget Act of 1988, to read:

0250-111-001—For local assistance, Judicial Council, for transfer by the State Controller from the General Fund to the Trial Court Improvement Fund 1,000,000

SEC. 17. Item 0420-102-001 is added to Section 2.00 of the Budget Act of 1988, to read:

0420-102-001—For local assistance, for the state's share of salaries and health, dental and vision benefits of judges of the superior courts, and for payment of the state's block grant supplement for salaries of judges of municipal courts in counties participating in the Trial Court Funding Program established in Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code, as provided by Section 68206 of the Government Code 22,609,000

Schedule:

(a) State share and advances per Section 68206 of the Government Code for superior court judges	2,580,000
(b) Reimbursements	−79,000
(c) State block grant supplement and advances per Section 68206 of the Government Code, for municipal court judges	20,739,000
(d) Reimbursements	−631,000

SEC. 18. Item 0450-101-001 is added to Section 2.00 of the Budget Act of 1988, to read:

0450-101-001—For transfer by the State Controller from the General Fund to the Court Funding Account for transfer to Item 0450-101-495 for implementation of the Trial Court Funding Program authorized in Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code 182,262,000

SEC. 19. Item 0450-101-495 is added to Section 2.00 of the Budget Act of 1988, to read:

0450-101-495—For implementation of the Trial Court Funding Program authorized in Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code, transferred from Item 0450-101-001, payable from the Court Funding Account 182,262,000
Schedule:
(a) 10-Block Grants for Trial Court Funding 177,762,000
(b) 20-New Judgeship Grants 4,500,000

SEC. 20. The sum of six hundred two thousand dollars ($602,000) is hereby appropriated from the General Fund in accordance with the following schedule in augmentation of, and for the purposes of, the listed items of Section 2.00 of the Budget Act of 1988:

(a) To Item 0390-101-001, $322,000.

(b) To Item 0840-001-001, $280,000.

SEC. 21. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of unique circumstances in the Counties of Alameda, Mono, Riverside, San Mateo, and Ventura. The Legislature finds, therefore, that this special act is necessary. The facts constituting this necessity are:

(a) In the County of Alameda, the poor fiscal condition of the William Knowland Zoo operated by the City of Oakland requires additional funding. Because the zoo serves residents from throughout the East Bay, this act is needed to provide additional regional funding sources.

(b) In the County of Mono, 70 percent of the total population of the county lives within one qualifying city. The distribution of property tax revenues to that one city will cause unique problems which must be dealt with by a special formula.

(c) In the County of Riverside, the financing of fire protection and fire suppression activities requires unusually close cooperation between the county and the cities within the county. This act is necessary because their fiscal relationships require mutually acceptable agreements.

(d) In the County of San Mateo, the City of Foster City is the only city in California which receives substantially all of its municipal services from a single subsidiary special district which already receives property tax revenues to support those services. This subsidiary special district is called the Estero Municipal Improvement District and is governed by a board of directors whose members are the members of the City Council of the City of Foster City. Further, its boundaries are substantially the same as the land area within the city limits of Foster City. This act is needed because of the unique conditions of Foster City.

(e) In the County of Ventura, there is a higher percentage of residents who live within qualifying cities than in any other county which includes urban areas. Distributing relatively large amounts of property tax revenues to those qualifying cities would have created unique fiscal problems for the County of Ventura. Accordingly, this act is needed to create the special formulas for local agencies in the County of Ventura.

SEC. 22. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the financial relief to cities contemplated by this act may be made available to them for the provision of vital municipal services for the entire 1988–89 fiscal year, it is necessary that this act go into effect immediately.

CHAPTER 945

An act to amend Sections 69596, 70047.5, 76000, and 76006 of, to amend, repeal, and add Section 68206 of, to add Sections 7.9a, 3501.5, and 68202.5 to, and to repeal and add Chapter 13 (commencing with Section 77000) of Title 8 of, the Government Code, to amend Section 1797.98a of the Health and Safety Code, to amend Sections 1463 and 1465 of the Penal Code, and to amend Section 50 of Chapter 1211 of the Statutes of 1987, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 16, 1988]

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

SECTION 1. Section 7.9a is added to the Government Code, to read:

7.9a. At the request of the Controller, two employees of that officer, in addition to those provided for in Section 7.9, shall be classified and compensated as career executives at category level IV or category level V.

SEC. 1.5. Section 3501.5 is added to the Government Code, to read:

3501.5. As used in this chapter, "public employee" also means an employee of any superior court or an employee of any municipal court, except those employees whose job classification confers safety

retirement status. These municipal and superior court employees shall be considered employees of the county for all matters within the scope of representation.

The county's established labor relations office shall represent the county in negotiations with any employee organization recognized to represent the municipal court or superior court employees.

SEC. 2. Section 68202.5 is added to the Government Code, to read:

68202.5. (a) In an option county the judge of a full-time justice court shall receive the same salary as a judge of the municipal court. A judge of a part-time justice court in an option county shall receive a percentage of that amount which equals the proportion of a full-time work week required to serve the court to which the judge is appointed or elected, as determined by the Judicial Council and as provided for in the Budget Act.

(b) This section shall become operative July 1, 1989.

SEC. 3. Section 68206 of the Government Code is amended to read:

68206. (a) Of the annual salary of each superior court judge the county for which he is elected or appointed shall pay the amount prescribed below and the remainder shall be paid by the state:

(1) Nine thousand five hundred dollars ($9,500) for a county of 250,000 or more.

(2) Seven thousand five hundred dollars ($7,500) for a county of more than 40,000 and less than 250,000.

(3) Five thousand five hundred dollars ($5,500) for a county of 40,000 or less.

(b) For each option county under the Brown-Presley Trial Court Funding Act, the state shall supplement the block grant for the second half of the 1988–89 fiscal year, as specified in Section 77200, by an amount equal to one-half of the annual salary of each municipal court judge in an option county, less the following amount per municipal court judge:

(1) Four thousand seven hundred fifty dollars ($4,750) for a county of 250,000 or more.

(2) Three thousand seven hundred fifty dollars ($3,750) for a county of more than 40,000 and less than 250,000.

(3) Two thousand seven hundred fifty dollars ($2,750) for a county of 40,000 or less.

(c) This section shall be repealed on July 1, 1989.

SEC. 4. Section 68206 is added to the Government Code, to read:

68206. (a) Of the annual salary of each superior court judge the county for which he is elected or appointed shall pay the amount prescribed below and the remainder shall be paid by the state:

(1) Nine thousand five hundred dollars ($9,500) for a county of 250,000 or more.

(2) Seven thousand five hundred dollars ($7,500) for a county of more than 40,000 and less than 250,000.

(3) Five thousand five hundred dollars ($5,500) for a county of

40,000 or less.

(b) For each option county under the Brown-Presley Trial Court Funding Act, the state shall supplement the block grant for the 1989–90 fiscal year, and for each option year thereafter, by an amount equal to the annual salaries of each municipal and justice court judge in an option county, less the following amount per judge:

(1) Nine thousand five hundred dollars ($9,500) for a county of 250,000 or more.

(2) Seven thousand five hundred dollars ($7,500) for a county of more than 40,000 and less than 250,000.

(3) Five thousand five hundred dollars ($5,500) for a county of 40,000 or less.

(c) This section shall become operative on July 1, 1989.

SEC. 5. Section 69596 of the Government Code is amended to read:

69596. In the City and County of San Francisco there are 29 judges of the superior court, any one or more of whom may hold court.

SEC. 6. Section 70047.5 of the Government Code is amended to read:

70047.5. (a) In Sonoma County, for the 1987–88 fiscal year each regular official reporter shall be paid an annual salary of thirty-seven thousand seven hundred forty dollars ($37,740), which salary shall include payment for services in reporting all proceedings in the superior court, before the grand jury and the coroner. In order that the salary provided for in this section shall remain equitable and competitive, the salary provided for in this section shall be adjusted and increased by the same, general across-the-board salary adjustment enacted by the county in the salary ordinance for other unrepresented employees.

(b) Reporters pro tempore serving in the superior and municipal courts shall receive a per diem equal to 90 percent of the gross hourly wage of a regular official superior court reporter, exclusive of benefits, for each full day, and one-half the per diem rate for each half day, when actually on duty under order of the court, and shall receive from the county their necessary traveling and other expenses when necessarily called from other counties.

(c) Regular official reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave and other benefits allowed to employees in the clerical nonsupervisory representation unit of the county.

(d) In Sonoma County the fee required by Section 70053 shall be twenty dollars ($20).

(e) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, a fee equal to one hundred ten dollars ($110) shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required. This fee shall be adjusted and increased by the same, general across-the-board salary

adjustment enacted by the county in the salary ordinance for regular official court reporters.

(f) All parties shall deposit their pro rata share of such fees with the clerk at the beginning of the second and each succeeding day's court session.

(g) The fees shall be taxed as costs in favor of any party paying the same and to whom costs are awarded by the judgment of the court.

SEC. 7. Section 76000 of the Government Code is amended to read:

76000. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 76001, 76002, 76004, 76005, 76006, 76008, or 76009 are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected, except that a resolution adopted pursuant to Section 76004 may limit the collection to the assessments specified in paragraph (2) or (3), as applicable, a resolution adopted pursuant to Section 76005 or 76008 shall limit the collection to the assessments specified in paragraph (2), and a resolution adopted pursuant to Section 76009 shall limit the collection to the assessments specified in paragraph (4):

(1) Except as limited by resolution pursuant to this subdivision, with respect to each fund established pursuant to Section 76001, 76002, 76004, or 76006, for every parking offense where a fine or forfeiture is imposed, a surcharge of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this subdivision.

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this paragraph.

(2) With respect to each fund established pursuant to Section 76001, 76002, 76004, 76005, or 76008, except in the counties listed in paragraph (3), there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to clause (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section

76001, 76002, 76004, 76005, or 76008.

(3) Except as provided in subdivision (h) of Section 76006, but notwithstanding any other provision of law, in Alameda, Contra Costa, Fresno, Kern, Los Angeles, Marin, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Ventura, and Yolo Counties, with respect to each fund established pursuant to Section 76004 or 76006, there shall be levied an additional amount of two dollars ($2) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to clause (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. These amounts shall be deposited with the county treasurer and placed in the funds established pursuant to Sections 76004 and 76006.

(4) With respect to each fund established pursuant to Section 76009, there shall be levied an additional amount of fifty cents ($.50) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to clause (iii) paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 76009.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 76001, 76002, 76004, 76005, 76006, 76008, or 76009.

(c) No county, city and county, city, district or other issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges and assessments established in the resolution adopted pursuant to this section, except as otherwise agreed upon by the local governmental entities involved.

SEC. 8. Section 76006 of the Government Code is amended to read:

76006. (a) Except as provided in subdivision (h), but notwithstanding any other provision of law, for the purpose of

assisting the Alameda, Contra Costa, Fresno, Kern, Marin, Monterey, Orange, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Ventura, or Yolo County in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the board of supervisors shall establish in the county treasury a Courthouse Temporary Construction Fund into which shall be deposited the amounts collected pursuant to subdivisions (d), (e), and (f). The moneys of the Courthouse Temporary Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of courtrooms or of a courtroom building or buildings referred to in subdivision (a), the county may use the moneys of the Courthouse Temporary Construction Fund (1) to rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if a new courtroom or a courtroom building or buildings are acquired, constructed, or financed or (2) to acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings if such excess is anticipated to be needed at a later time.

(c) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until such time as such excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Temporary Construction Fund.

(d) Except in Marin, Monterey, Riverside, San Luis Obispo, Solano, Sonoma, Stanislaus, Ventura, and Yolo Counties, the county treasurer shall place in the fund one dollar and fifty cents ($1.50) for each parking case presented to or filed in the courts of the county. Such moneys shall be taken from fines and forfeitures deposited with the treasurer prior to any division pursuant to Section 1463 of the Penal Code.

(e) Except in Marin, Monterey, Riverside, San Luis Obispo, Solano, Sonoma, Stanislaus, Ventura, and Yolo Counties, each city, district, or other issuing agency which elects to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, shall pay one dollar and fifty cents ($1.50) for each bail deposit collected on each violation which is not filed in court to the county treasurer. Such payments to the county treasurer shall be made monthly, and the treasurer shall deposit all such sums in the fund.

(f) The county treasurer shall place all additional assessment

amounts collected on nonparking offenses pursuant to paragraph (3) of subdivision (a) of Section 76000 in the fund.

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

Deposits to the fund in accordance with subdivisions (d), (e), and this subdivision shall continue through and including the 20th year after the initial calendar year in which the surcharge is collected.

(g) Subdivisions (a) to (f), inclusive, of this section shall become operative upon the adoption of a resolution by the board of supervisors stating that the provisions of this section are necessary to the establishment of adequate courtroom facilities in the county setting forth the surcharge or surcharges, and the manner in which such surcharge or surcharges shall be collected, and instructing the county clerk to transmit, on the next business day following the adoption of the resolution, a copy of the resolution to the clerk of the municipal court.

(h) Alameda County may collect those funds only so long as the county maintains the Berkeley-Albany Municipal Court. In the event that the Berkeley-Albany Municipal Court is closed, Alameda County may not collect funds pursuant to this section.

SEC. 9. Chapter 13 (commencing with Section 77000) of Title 8 of the Government Code is repealed.

SEC. 10. Chapter 13 (commencing with Section 77000) is added to Title 8 of the Government Code, to read:

CHAPTER 13. STATE FUNDING OF TRIAL COURTS

Article 1. General Provisions

77000. This chapter shall be known and may be cited as the Brown-Presley Trial Court Funding Act.

77001. As used in this chapter, "block grant" means the amount of state funds to be provided to a participating county for the support of the operation of the trial courts, as determined by the product of the rate of reimbursement under Section 77200 multiplied by the number of reimbursable positions.

77002. As used in this chapter, "board" means the board of supervisors of a county.

77003. As used in this chapter, "court operations" means the county share of superior and municipal court judges' salaries, benefits, and public agency retirement contributions, and the salary, benefits, and public agency retirement contributions for justice court judges, subordinate judicial officers, other court staff including all municipal court staff positions specifically prescribed by statute, those deputy marshals, constables, and sheriffs as the court deems necessary for court operations, court-appointed counsel in juvenile court dependency proceedings, services and supplies relating to court operations, collective bargaining under the

Meyers-Milias-Brown Act with respect to court employees specified in Section 3501.5, and actual indirect costs, not to exceed 18 percent of the block grant, for county general services attributable to court operations, but specifically excluding, but not limited to, law library operations conducted by a trust pursuant to statute; courthouse construction; district attorney services; probation services; indigent criminal defense; grand jury expenses and operations; and pretrial release services. However, in a county with a population of 350,000 or less as determined by the Department of Finance, to the extent that the block grant for a given fiscal year exceeds the 1987–88 funding level for the trial courts in that county, as adjusted by the current consumer price index, "court operations" includes probation services, indigent criminal defense, and pretrial release services.

77004. As used in this chapter, "option county" means a county which has adopted the provisions of this chapter for the current fiscal year.

77005. As used in this chapter, "state-mandated local program" means any and all reimbursements owed or owing by operation of either Section 6 of Article XIII B of the California Constitution, or Section 17561 of the Government Code, or both.

77006. As used in this chapter, "subordinate judicial officer" means a court commissioner or referee authorized by statute.

77007. As used in this chapter, "trial court" means a superior court, municipal court, or justice court.

77008. As used in this chapter, "filing fees" means any and all fees and charges, liberally construed, collected or collectible for filing, processing, including service of process, copying, endorsing, or for any other service related to court operations as defined in Section 77003. However, with respect to a county with a population of 350,000 or less as determined by the Department of Finance, "filing fees" do not include any fees collected for probation services, indigent criminal defense, or pretrial release services.

77009. As used in this chapter, "fine" means any monetary penalty collected for a violation of law, to the extent it would otherwise accrue to the benefit of a county, including any penalty assessments or surcharges, whether collected by a court or agency of a county and regardless of the stage of the process after citation at which it is collected. Nothing in this section shall be construed to characterize civil penalties awarded or received in environmental, antitrust, or consumer protection actions brought by the people as a fine.

77010. As used in this chapter, "forfeiture" means all money forfeited by a person charged or cited for a violation of law, to the extent it would otherwise accrue to the benefit of a county, including bail, any penalty assessments or surcharges, whether collected by a court or agency of a county and regardless of the stage of the process after citation at which it is collected.

77011. As used in this chapter, "penalty assessment" means any amount charged as a proportion of any fine or forfeiture and

collected in addition thereto, to the extent it would otherwise accrue to the benefit of a county.

77012. As used in this chapter, "county" includes a city and county.

77013. As used in this chapter, "Controller" means the State Controller.

Article 2. Legislative Findings

77100. The Legislature finds and declares that:

(a) The trial of civil and criminal actions is an integral and necessary function of the judicial branch of state government under Article VI of the California Constitution.

(b) All citizens of this state should enjoy equal and ready access to the trial courts.

(c) Local funding of trial courts may create disparities in the availability of the courts for the resolution of disputes and the dispensation of justice.

(d) The method of funding trial courts should not create financial barriers to the fair and proper resolution of civil and criminal actions.

(e) Many people defend their personal and property rights in the courts, and seek redress through the judicial system only when compelled by sheer necessity of circumstance.

(f) This chapter is enacted to promote the general welfare and to protect the public interest in a viable and accessible judicial system.

77101. The Legislature further finds and declares that the expenditure of the state funds under the provisions of this chapter is in the public interest and necessary to the accomplishment of the purposes set forth above.

Article 3. State Finance Provisions

77200. (a) Except as provided in subdivisions (b) and (c) with respect to newly-created judgeships, the Controller shall transmit to each option county quarterly payments on the block grant owing to that county based upon the number of judges, court commissioners, and referees in the county, as determined pursuant to Section 77202, multiplied each quarter by the sum of fifty-three thousand dollars ($53,000), as adjusted pursuant to Section 77201.

(b) With respect to judgeships authorized by Chapter 1211 of the Statutes of 1987, for any new judgeship in excess of 10 new judgeships for a particular option county, if the county's average quarterly appropriation for court operations for the 1987–88 fiscal year, as determined by the Controller, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost per judge), exceeds the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the base year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the

quarterly multiplier for each such new judgeship shall be:

(1) For the first four quarters following the creation of that judgeship, the base year quarterly cost per judge.

(2) For the second four quarters thereafter, the applicable sum specified in subdivision (a) as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(3) For the third four quarters thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

(4) For the fourth four quarters thereafter, the standard current quarterly block grant, plus 25 percent of the difference between the base year quarterly cost per judge and the base year quarterly block grant.

For purposes of this subdivision, a judgeship created upon the adoption of a resolution by the board of supervisors shall be deemed to be created in the quarter in which the resolution is adopted.

(c) With respect to judgeships authorized by statutes which take effect on or after January 1, 1990, if the county's average quarterly appropriation for court operations for the fiscal year preceding the effective date of that statute, as determined by the Controller, reduced by the average quarterly amount of funds, if any, received during that fiscal year pursuant to Section 77207, divided by the number of judges, referees, and court commissioners determined pursuant to Section 77202 for that year (the base year quarterly cost per judge), exceeds the quarterly multiplier for the fiscal year in which the statute takes effect (the comparison year quarterly block grant), instead of the quarterly multiplier determined pursuant to subdivision (a), the quarterly multiplier for each such new judgeship shall be:

(1) For the first fiscal year following the effective date of the statute authorizing that judgeship, the base year quarterly cost per judge.

(2) For the second fiscal year thereafter, the applicable sum specified in subdivision (a) for each quarter of the current fiscal year as adjusted pursuant to Section 77201 (the standard current quarterly block grant), plus 75 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(3) For the third fiscal year thereafter, the standard current quarterly block grant, plus 50 percent of the difference between the base year quarterly cost per judge and the comparison year quarterly block grant.

(4) For the fourth fiscal year thereafter, the standard current quarterly block grant, plus 25 percent of the difference between between the base year quarterly cost per judge and the comparison year quarterly block grant.

(c) Quarterly payments shall be transmitted by the Controller on or before the 15th day of that quarter, except that payments for the quarter beginning January 1, 1989, shall be made no later than February 15, 1989.

77201. The sum set forth in subdivision (a) of Section 77200 shall be adjusted each fiscal year by a percentage equal to the average percentage salary increase for the previous fiscal year for California state employees, as determined pursuant to Section 68203, beginning with an adjustment for the 1989–90 fiscal year based on the 1988–89 state employees' average percentage salary increase.

77202. The number of judges, court commissioners, and referees for the purpose of calculating the block grant for a county shall be as follows:

(a) The number of superior and municipal court judges for purposes of calculating the block grant shall be those authorized by Section 4 of Article VI of the California Constitution and those authorized by statute. For purposes of this chapter, a judgeship created upon the adoption of a resolution by the board of supervisors shall be deemed to be "authorized by statute" beginning with the fiscal year next following the adoption of that resolution.

(b) The number of justice court judges for purposes of calculating the block grant shall be the number of positions in effect on January 1, 1988, as revised thereafter by statute. However, the block grant for a part-time justice court judgeship shall be prorated according to the percentage of a full-time work week, as determined pursuant to Section 68202.5.

(c) The number of subordinate judicial officers for purposes of calculating the block grant shall be the number of full-time equivalent court commissioners and referees authorized by statute, funded, filled, and reported to the Judicial Council on or before January 1, 1987, plus any such positions thereafter created on or before September 27, 1987, plus any such positions specifically authorized by statute enacted after January 1, 1988, funded, filled, and reported to the Judicial Council.

77203. Reimbursement to an option county pursuant to this chapter shall be in lieu of any sixty thousand dollar ($60,000) block amount traditionally provided by the Legislature for superior court judgeships established since January 1, 1973, for which such grants would otherwise be provided, payment for any prior or current program for which reimbursement of state-mandated local programs for the trial courts is claimed, and payment as provided in Section 77203.5. However, this section shall not apply to a proportional, thirty thousand dollar ($30,000) block amount provided by the Legislature for the first half of the 1988–89 fiscal year.

77203.5. (a) The initial decision by a county to opt into the system pursuant to Section 77300 shall constitute a waiver of all claims for reimbursement for state-mandated local programs not theretofore approved by the State Board of Control, the Commission on State Mandates, or the courts to the extent the Governor, in his

discretion, determines that waiver to be appropriate; provided, that a decision by a county to opt into the system pursuant to Section 77300 beginning with the second half of the 1988–89 fiscal year shall not constitute a waiver of a claim for reimbursement based on a statute chaptered on or before the date the act which added this chapter is chaptered, which is filed in acceptable form on or before the date the act which added this chapter is chaptered. A county may petition the Governor to exempt any such claim from this waiver requirement; and the Governor, in his discretion, may grant the exemption in whole or in part. The waiver shall not apply to or otherwise affect any claims accruing after initial notification. Renewal, renegotiation, or subsequent notification to continue in the program shall not constitute a waiver.

(b) The initial decision by a county to opt into the system pursuant to Section 77300 shall constitute a waiver of any claim, cause of action, or action whenever filed, with respect to the Trial Court Funding Act of 1985, Chapter 1607 of the Statutes of 1985, or Chapter 1211 of the Statutes of 1987.

77204. Beginning with the 1989–90 fiscal year, an option county shall: (a) appropriate and authorize for expenditure each fiscal year for court operations an amount not less than the amount appropriated for court operations for the first full fiscal year in which the county is an option county, as adjusted each fiscal year by the percentage determined pursuant to Section 77201 for adjustment of the block grant; (b) provide the trial courts with at least the same proportionate level of indirect services as was provided in the 1986–87 fiscal year; (c) fulfill its shared financial and other obligations pursuant to Section 68073 of the Government Code; and (d) provide for judicial arbitration and court mediation and conciliation services at a level of service at least proportionate to the number of cases filed subject to such programs in the 1986–87 fiscal year.

77205. (a) An option county shall receive block grant disbursement from the state quarterly.

(b) The Controller shall adopt appropriate regulations for recordkeeping, accounting, and reporting by an option county in order to determine all county revenues, including filing fees, fines, and forfeitures, and all expenditures relating to court operations.

(c) The county shall submit to the Controller for each full fiscal year that the option county participates in the program, in the form and manner prescribed by the Controller, a report of all revenues, including filing fees, fines, and forfeitures, and all expenditures relating to court operations, for the prior 12-month period ending June 30. The report shall be submitted by each option county to the Controller on or before October 1 of the fiscal year following the reporting year.

The Controller shall compile and submit to the Legislature reports of the financial transactions of each option county relating to court operations.

Following the October 1 reporting deadline for an option county,

the Controller shall not make any quarterly payment to that county until the report is submitted.

(d) Regulations, rules, and reporting requirements adopted pursuant to the provisions of this chapter shall be exempt from review and approval or other processing by the Office of Administrative Law as provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(e) The Controller shall perform and publish financial and compliance audits of the reports submitted by option counties under this chapter for the first full fiscal year for each county opting under this chapter. The Controller shall report the results of these audits to the Legislature.

77205.5. Except as to matters covered by Section 77205, the Judicial Council shall adopt pertinent rules to further the implementation of this chapter.

The Judicial Council shall certify to the Controller at least 30 days before the beginning of each quarter the salaries of justice court judges in option counties, and the number of reimbursable positions by category as provided in Section 77202 in each county for purposes of calculating the block grant as provided in Section 77200.

77206. A decision by an option county to opt into the system constitutes an agreement by the county that the appropriations limit of the state shall be increased and the appropriations limit of the county shall be decreased, by the amount specified below during the period of participation, to reflect the transfer to the state of financial responsibility for court services funded by the proceeds of taxes. The change in the appropriations limits shall be determined by the Department of Finance for the county's initial year of participation. The amount of the transfer shall be equal to the net amount of increased state funding, considering the increased funding for block grants and judges' salaries offset by reduced funding for trial court mandates and superior court sixty thousand dollar ($60,000) block grants. For counties whose initial year of participation is the 1988–89 fiscal year, the Department of Finance shall determine the additional amount of appropriations limit to be transferred from the counties to the state in the 1989–90 fiscal year to reflect full-year program funding. If the option county ceases to participate, the appropriations limits of the county and state shall revert to the amounts that would have been applicable if no adjustment had been made under this section.

77207. (a) There is in the State Treasury the Trial Court Improvement Fund.

(b) The sum of twenty million dollars ($20,000,000) shall be appropriated annually in the Budget Act to the Trial Court Improvement Fund for purposes of this section. Of that sum, any funds unencumbered at the end of that fiscal year shall revert to the Court Funding Account in the General Fund.

(c) Funds appropriated to the Trial Court Improvement Fund shall be disbursed to option counties through grants administered by

the Judicial Council to improve court management and efficiency, case processing, and speedy trials as provided in subdivision (d).

(d) These funds shall be allocated or reallocated by order of the Judicial Council to trial courts for equipment, personnel, education, demonstration projects, research, programs, and facilities, to improve trial court operations. However, any allocation or reallocation by the Judicial Council shall be reported to the Director of Finance. Not more than 50 percent of the annual Trial Court Improvement Fund allocation may be used for court facilities construction.

Allocations for court facilities construction shall be based upon use of trial court improvement funds in an amount not to exceed 70 percent, and a local contribution not less than 30 percent, of the total cost of the project.

(e) Moneys in the Trial Court Improvement Fund shall be disbursed to option counties for allocation to trial courts beginning January 1, 1989, pursuant to procedures adopted by the Judicial Council.

(f) The Judicial Council shall present an annual report to the Legislature on the use of the Trial Court Improvement Fund. The report shall include appropriate recommendations.

77208. The board of supervisors of an option county may, at county cost, provide municipal court judges serving in any municipal court in the county on or after October 1, 1987, with retiree health benefits substantially equal to the retiree health benefits provided to superior court judges.

Article 4. County Option Procedure

77300. (a) An option county shall notify the state of its decision to opt into the system, as follows:

(1) For the second half of the 1988–89 fiscal year, on or before January 15, 1989.

(2) For the 1989–90 fiscal year, on or before March 1, 1989.

(3) For any fiscal year thereafter, on or before November 15 of the preceding fiscal year.

(b) However, a county which has reached its constitutional spending limit pursuant to Article XIII B of the California Constitution may notify the state of its decision to opt into the system after a successful override election allowing the county to utilize state funding for local trial courts, to be effective commencing with the next quarter following notification.

Nothing in this chapter shall be construed to prohibit the state and an option county, by mutual agreement between the Director of Finance and the parties signing the option resolution, from entering into a two-year option term.

By accepting state funding of trial courts, the county agrees to perform all duties and provide services required by this chapter and all other provisions of law.

77301. A county shall notify the state of its decision to opt into the system by transmitting to the Secretary of State and the Controller a resolution, agreeing without qualification or condition to be bound by the provisions of this chapter in consideration for state funding of trial courts in that county.

The resolution shall be signed by the chairperson of the board of supervisors, the presiding judge of the superior court, and the presiding judge of the municipal court district in which the county seat is located, if there is a municipal court, or if there is no such municipal court district, the judge of the justice court district in which the county seat is located, and shall certify that a majority of each of the board of supervisors, the judges of the superior court, and the judges of the municipal and justice courts in the county requests state funding. However, for fiscal year 1988–89, in a county having only one superior court judge, no municipal court judge, and only one justice court judge who serves less than halftime, as determined by the Judicial Council, only the superior court judge may so sign and certify for the judges of the county.

The option notification for the second half of the 1988–89 fiscal year shall be deemed effective on January 1, 1989. In subsequent years, the option notification shall become effective for the full fiscal year on the July 1 following notification, provided that sufficient moneys have been appropriated in the Budget Act for that fiscal year to adequately fund the program.

Article 5. Nonseverability

77400. If any portion of this chapter is declared to be unconstitutional or void, the entire chapter shall become inoperative.

SEC. 10.5. Section 1797.98a of the Health and Safety Code is amended to read:

1797.98a. Each county may establish an Emergency Medical Services Fund, upon adoption of a resolution by the board of supervisors. The money in the fund shall be available for the reimbursements required by this chapter. The fund shall be administered by each county, except that a county electing to have the state administer its medically indigent services program may also elect to have its Emergency Medical Services Fund administered by the state. Costs of administering the fund shall be reimbursed by the fund, up to 10 percent of the amount of the fund. The fund shall be utilized to reimburse physicians and hospitals for patients who do not make payment for emergency medical services and for other emergency medical services purposes as determined by each county. Fifty-eight percent of the money in the fund shall be distributed to physicians for emergency services provided by all physicians, except those physicians employed by county hospitals or district hospitals, in general acute care hospitals that provide basic or comprehensive emergency services up to the time the patient is stabilized, 25

percent of the fund shall be distributed only to hospitals providing disproportionate trauma and emergency medical care services, and 17 percent of the fund shall be distributed for other emergency medical services purposes as determined by each county. The source of the money in the fund shall be the penalty assessment made for this purpose, as provided in Section 1465 of the Penal Code.

SEC. 11. Section 1463 of the Penal Code is amended to read:

1463. Except as otherwise specifically provided by law:

(a) All fines and forfeitures including Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which the court is situated. The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the proper funds of the county an amount equal to the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by the state or by the county in which the court is situated, exclusive of fines or forfeitures or forfeitures of bail collected from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within the limits of a city within the county.

(2) Except as otherwise provided in this subdivision, once a month there shall be transferred into the traffic safety fund of each city in the county an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within that city, and an amount equal to the remaining 50 percent shall be transferred to the special road fund of the county. However, the board of supervisors of the county may, by resolution, provide that not more than 50 percent of the amount otherwise to be transferred to the special road fund of the county, be transferred into the general fund of the county; and the Board of Supervisors of Merced or Yolo County may provide, by resolution, that until July 1, 1994, up to 100 percent of the amount otherwise to be transferred to the special road fund of the county shall be transferred into the general fund of the county for the purpose of funding court operations.

Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code on state highways constructed as freeways whereon city police officers enforced the provisions of the Vehicle Code on April 1, 1965, within the limits of a city within the county which is set forth in the schedule appearing in paragraph (3). If this

paragraph is applicable within a city, it shall apply uniformly throughout the city to all freeways regardless of the date of freeway construction or completion.

(3) Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by each city in the county which is set forth in the following schedule:

County and city	Percentage
Alameda	
Alameda	18
Albany	29
Berkeley	19
Emeryville	13
Hayward	10
Livermore	7
Oakland	22
Piedmont	44
Pleasanton	17
San Leandro	9
County percentage	21
Amador	
Amador	25
Ione	25
Jackson	25
Plymouth	25
Sutter Creek	25
County percentage	29
Butte	
Biggs	75
Chico	22
Gridley	49
Oroville	9
County percentage	20
Calaveras	
Angels	62
County percentage	62
Colusa	
Colusa	13
Williams	17
County percentage	16
Contra Costa	
Antioch	11
Brentwood	24
Concord	18
El Cerrito	19
Hercules	14

Martinez	22
Pinole	22
Pittsburg	5
Richmond	14
San Pablo	12
Walnut Creek	24
County percentage	14
Del Norte	
Crescent City	19
County percentage	19
El Dorado	
Placerville	14
County percentage	14
Fresno	
Clovis	23
Coalinga	21
Firebaugh	16
Fowler	34
Fresno	26
Huron	24
Kerman	14
Kingsburg	34
Mendota	11
Orange Cove	24
Parlier	21
Reedley	30
Sanger	29
San Joaquin	15
Selma	14
County percentage	24
Glenn	
Orland	27
Willows	36
County percentage	32
Humboldt	
Arcata	9
Blue Lake	26
Eureka	11
Ferndale	30
Fortuna	17
Trinidad	11
County percentage	11
Imperial	
Brawley	8
Calexico	10
Calipatria	30
El Centro	5
Holtville	16
Imperial	6

Westmorland	12
County percentage	8
Inyo	
Bishop	25
County percentage	25
Kern	
Bakersfield	10
Delano	13
Maricopa	36
Shafter	15
Taft	19
Tehachapi	12
Wasco	28
County percentage	12
Kings	
Corcoran	31
Hanford	21
Lemoore	25
County percentage	25
Lake	
Lakeport	33
County percentage	33
Lassen	
Susanville	21
County percentage	21
Los Angeles	
Alhambra	13
Arcadia	11
Avalon	54
Azusa	11
Bell	11
Beverly Hills	14
Burbank	14
Claremont	5
Compton	16
Covina	11
Culver City	10
El Monte	11
El Segundo	11
Gardena	22
Glendale	16
Glendora	12
Hawthorne	7
Hermosa Beach	14
Huntington Park	12
Inglewood	16
La Verne	14
Long Beach	14
Los Angeles	8

Lynwood	9
Manhattan Beach	13
Maywood	15
Monrovia	11
Montebello	11
Monterey Park	11
Palos Verdes Estates	10
Pasadena	9
Pomona	12
Redondo Beach	15
San Fernando	17
San Gabriel	16
San Marino	5
Santa Monica	11
Sierra Madre	11
Signal Hill	24
South Gate	13
South Pasadena	9
Torrance	16
Vernon	25
West Covina	11
Whittier	11
County percentage	11
Madera	
Chowchilla	17
Madera	16
County percentage	17
Marin	
Belvedere	16
Corte Madera	12
Fairfax	30
Larkspur	30
Mill Valley	13
Ross	18
San Anselmo	11
San Rafael	13
Sausalito	21
County percentage	16
Mendocino	
Fort Bragg	19
Point Arena	40
Ukiah	10
Willits	24
County percentage	17
Merced	
Atwater	23
Dos Palos	21
Gustine	23
Livingston	14

Los Banos	13
Merced	18
County percentage	18
Modoc	
Alturas	42
County percentage	42
Monterey	
Carmel	17
Gonzales	10
Greenfield	13
King City	36
Monterey	13
Pacific Grove	22
Salinas	36
Soledad	16
County percentage	23
Napa	
Calistoga	37
Napa	11
St. Helena	12
County percentage	14
Nevada	
Grass Valley	7
Nevada City	17
County percentage	9
Orange	
County percentage	15
Placer	
Auburn	18
Colfax	8
Lincoln	26
Rocklin	16
Roseville	10
County percentage	14
Plumas	
Portola	19
County percentage	19
Riverside	
Banning	35
Beaumont	15
Blythe	9
Coachella	12
Corona	12
Elsinore	10
Hemet	35
Indio	16
Palm Springs	35
Perris	14
Riverside	16

San Jacinto	41
County percentage	35
Sacramento	
Folsom	31
Galt	25
Isleton	13
North Sacramento	10
Sacramento	21
County percentage	26
San Benito	
Hollister	9
San Juan Bautista	28
County percentage	11
San Bernardino	
Barstow	23
Chino	14
Colton	21
Fontana	15
Needles	33
Ontario	20
Redlands	28
Rialto	15
San Bernardino	20
Upland	14
County percentage	20
San Diego	
Carlsbad	8
Chula Vista	23
Coronado	25
Del Mar	8
El Cajon	17
Escondido	16
Imperial Beach	8
La Mesa	23
Lemon Grove	8
National City	14
Oceanside	15
San Marcos	8
Vista	8
San Diego	6
County percentage	25
San Joaquin	
Lodi	18
Manteca	8
Ripon	11
Stockton	14
Tracy	15
County percentage	14

San Luis Obispo	
Arroyo Grande	9
Paso Robles	26
Pismo Beach	8
San Luis Obispo	21
County percentage	16
San Mateo	
Atherton	27
Belmont	7
Burlingame	38
Colma	40
Daly City	24
Hillsborough	75
Menlo Park	12
Millbrae	16
Redwood City	27
San Bruno	13
San Carlos	8
San Mateo	42
South San Francisco	12
County percentage	21
Santa Barbara	
Guadalupe	28
Lompoc	16
Santa Barbara	11
Santa Maria	12
County percentage	13
Santa Clara	
Alviso	75
Campbell	16
Gilroy	28
Los Altos	16
Los Gatos	30
Morgan Hill	11
Mountain View	13
Palo Alto	21
San Jose	13
Santa Clara	16
Sunnyvale	26
County percentage	16
Santa Cruz	
Capitola	21
Santa Cruz	23
Watsonville	21
County percentage	22
Shasta	
Redding	22
County percentage	22
Sierra	
Loyalton	75

County percentage	75
Siskiyou	
Dorris	18
Dunsmuir	29
Etna	18
Fort Jones	46
Montague	75
Mount Shasta	37
Tulelake	33
Yreka	30
County percentage	29
Solano	
Benicia	17
Dixon	18
Fairfield	18
Rio Vista	19
Suisun	7
Vacaville	15
Vallejo	18
County percentage	19
Sonoma	
Cloverdale	40
Cotati	40
Healdsburg	40
Petaluma	24
Rohnert Park	40
Santa Rosa	40
Sebastopol	40
Sonoma	40
County percentage	40
Stanislaus	
Ceres	14
Modesto	15
Newman	10
Oakdale	15
Patterson	20
Riverbank	18
Turlock	19
County percentage	15
Sutter	
Live Oak	17
Yuba City	17
County percentage	17
Tehama	
Corning	26
Red Bluff	39
Tehama	10
County percentage	31

Tulare	
Dinuba	21
Exeter	23
Lindsay	24
Porterville	26
Tulare	20
Visalia	17
Woodlake	15
County percentage	21
Tuolumne	
Sonora	23
County percentage	23
Ventura	
Fillmore	16
Ojai	16
Oxnard	16
Port Hueneme	16
Santa Paula	16
Ventura	16
County percentage	16
Yolo	
Davis	22
Winters	19
Woodland	20
County percentage	20
Yuba	
Marysville	15
Wheatland	38
County percentage	15

In any county for which a county percentage is set forth in the above schedule and which contains a city which is not listed or which is hereafter created, there shall be transferred to the county general fund the county percentage. In any county for which no county percentage is set forth, and in which a city is hereafter created, there shall be transferred to the county general fund 15 percent.

A county and a city therein may, by mutual agreement, adjust the percentages herein.

(4) Once a month there shall be transferred to each city in the county an amount equal to the total sum remaining after the transfers provided for in paragraphs (2) and (3) have been made of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by that city or arrests made by state officers for misdemeanor violations of the Vehicle Code.

(b) Any money deposited with the court or with the clerk thereof which, by order of the court or for any other reason, should be returned, in whole or in part, to any person, or which is by law payable to the state or to any other public agency, shall be paid to that person or to the state or to the other public agency by warrant

of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which the money was deposited, or within one year after an order made by the court for the return or delivery of the money to any person, shall be apportioned between the city and the county and paid or transferred in the manner provided above for the apportionment and payment of fines and forfeitures. This paragraph controls over any conflicting provisions of law.

(c) This section does not require any county or municipal or justice court to process a parking penalty under Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code for a city, district, or any other issuing agency prior to the filing of a complaint.

SEC. 12. Section 1465 of the Penal Code is amended to read:

1465. In addition to the assessments levied by Section 1464, an additional assessment of two dollars ($2) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration, or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to clause (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code, may be imposed by each county upon the adoption of a resolution by the board of supervisors. An assessment imposed by this section shall be collected and disbursed as provided in Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of the Health and Safety Code.

SEC. 13. Section 50 of Chapter 1211 of the Statutes of 1987 is amended to read:

Sec. 50. Sections 5 to 40, inclusive, of this act shall become individually operative only upon the notification to the state by the county affected by that particular section of its decision to opt into the system under the Brown-Presley Trial Court Funding Act, as specified in Sections 77300 and 77301 of the Government Code.

SEC. 14. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 15. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for

reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 16. The Legislature finds that the duties of the Controller pursuant to the Brown-Presley Trial Court Funding Act will require a significant increase in the number of highly qualified and specialized deputies, and enacts Section 1 of this act to assist the Controller in this respect.

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

In order to clarify the rights of trial court personnel to collective bargaining under the Meyers-Milias-Brown Act, to ensure adequate court reporter services in Sonoma County, to clarify the number of superior court judges in San Francisco, to increase certain penalty assessments collected by the trial courts, as needed, to provide needed staffing for the Controller, and to provide needed state funding for trial courts, it is necessary that this act take effect immediately.

CHAPTER 946

An act to repeal Section 2805 of the Labor Code, relating to employers.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 2805 of the Labor Code is repealed.

CHAPTER 947

An act to add Section 1797.187 to the Health and Safety Code, relating to health.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 1797.187 is added to the Health and Safety Code, to read:

1797.187. A peace officer as described in Section 830.1, subdivision (a) or (b) of Section 830.2, or subdivision (g) of Section

830.3 of the Penal Code, while in the service of the agency or local agency which employs him or her, shall be notified by the agency or local agency if the peace officer is exposed to a known carcinogen, as defined by the International Agency for Research on Cancer, or as defined by its director, during the investigation of any place where any controlled substance, as defined in Section 11007 is suspected of being manufactured, stored, transferred, or sold, or any toxic waste spills, accidents, leaks, explosions, or fires.

The Commission on Peace Officers Standards and Training basic training course, and other training courses as the commission determines appropriate, shall include, on or before January 1, 1990, instruction on, but not limited to, the identification and handling of possible carcinogenic materials and the potential health hazards associated with these materials, protective equipment, and clothing available to minimize contamination, handling, and disposing of materials and measures and procedures that can be adopted to minimize exposure to possible hazardous materials.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 948

An act to amend Section 1506 of the Health and Safety Code, relating to social workers, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may place children only in a certified family home which has been certified by that agency or in any licensed foster family home selected.

(2) Any home selected and certified for the reception and care of children placed by that licensee shall not, during the time it is certified and used only by that agency for these placements or care,

be subject to the provisions of Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(b) (1) A foster family agency shall certify to the department that such home has met the department's licensing standards.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall, develop licensing regulations differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e) Education requirements for social work personnel for a foster family agency shall be a master's degree from an accredited or state approved graduate school in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology, social psychology, or equivalent education and experience, as determined by the state department.

(f) In addition to the degree specifications in subdivision (e), all of the following master's level coursework and field practice shall be required of all new hires for the position of social work personnel effective January 1, 1992:

(1) At least 100 days of field practice in a social service agency setting.

(2) At least nine units of coursework related to children and families.

(3) At least three semester units in working with minority populations.

(4) At least three semester units in child welfare.

Persons who are hired as social work personnel on or after the effective date of this subdivision, as added by the Statutes of 1988, but prior to January 1, 1992, who do not meet the masters level coursework and 100-day field practice requirement listed in this subdivision shall be required to successfully complete that coursework and field practice by December 31, 1991, in order to remain employed as social work personnel in a foster family agency. For those employees who were hired prior to the effective date of this subdivision, they shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(g) The State Department of Social Services shall be required to

complete the process for the exception to minimum education requirements for social work personnel within 30 days of receiving the exception application of social work personnel qualifications from the foster family agency.

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

In order to ensure that adequate educational standards exist for social workers in foster and group homes, at the earliest possible time, it is necessary that this act go into immediate effect.

CHAPTER 949

An act to amend Section 1250.9 of, and to add Section 1250.10 to, the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 1250.9 of the Health and Safety Code is amended to read:

1250.9. (a) The Office of Statewide Health Planning and Development shall conduct a demonstration project to evaluate the accommodation of postsurgical care patients for periods not exceeding two days, except that the attending physician may require that the stay be extended to no more than three days.

(b) The demonstration project shall operate for a period not to exceed three years, for no more than 12 project sites, one of which shall be located in Fresno County. Any of the 12 project sites may be distinct parts of health facilities, or any of those sites may be physically freestanding from health facilities. None of the project sites that are designated as distinct parts of health facilities, shall be located in the service area of any one of the six freestanding project sites. None of the project sites that are designated as distinct parts of health facilities shall have a service area that overlaps with any one or more service areas of the freestanding pilot sites. For the purposes of this section, service area shall be defined by the office.

(c) (1) The office shall establish standards for participation, commensurate with the needs of postsurgical care patients requiring temporary nursing services following outpatient surgical procedures.

(2) In preparing the standards for participation, the office may, as appropriate, consult with the department and with a technical advisory committee which may be appointed by the Director of Statewide Health Planning and Development. The committee shall

have no more than eight members, all of whom shall be experts in health care, as determined by the director. One of the members of the committee shall, as determined by the director, have specific expertise in the area of pediatric surgery and recovery care.

(3) If a technical advisory committee is established by the director, members of the committee shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the committee.

(d) Not later than six months prior to the conclusion of the demonstration project, the office shall submit an evaluation of the demonstration project to the Legislature on the effectiveness and safety of the demonstration project in providing recovery services to patients receiving outpatient surgical services. The office, as part of the evaluation, shall include recommendations regarding the establishment of a new license category or amendment of existing licensing standards.

(e) The office shall establish and administer the demonstration project in facilities with no more than 20 beds which continuously meet the standards of skilled nursing facilities licensed under subdivision (c) of Section 1250, except that the office may, as appropriate and unless a danger to patients would be created, eliminate or modify the standards. This section shall not prohibit general acute care hospitals from participating in the demonstration project. The office may waive those building standards applicable to a project site which is a distinct part of a health facility which are inappropriate, as determined by the office, to the demonstration project. Notwithstanding health facility licensing regulations found in Division 5 (commencing with Section 70001) of Title 22 of the California Adminstrative Code, a project site which is a distinct part of a health facility shall comply with all standards for participation established by the office and with all regulations adopted by the office to implement this section. A project site which is a distinct part of a health facility shall not, for the duration of the pilot project, be subject to the provisions of Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code which conflict, as determined by the office, with the demonstration project standards or regulations.

(f) The department shall issue a facility identification number to each facility selected for participation in the demonstration project.

(g) Persons who wish to establish recovery care programs shall make application to the office for inclusion in the pilot program. Applications shall be made on forms provided by the office and shall contain sufficient information determined as necessary by the office.

(h) As a condition of participation in the pilot program, each applicant shall agree to provide statistical data and patient information that the office deems necessary for effective evaluation. It is the intent of the Legislature that the office shall develop procedures to assure the confidentiality of patient information and shall only disclose patient information, including name

identification, as is necessary pursuant to this section or any other law.

(i) Any authorized officer, employee, or agent of the office or the state department may, upon presentation of proper identification, enter and inspect any building or premises and any records, including patient records, of a pilot project participant at any reasonable time to review compliance with, or to prevent any violation of, this section or the regulations and standards adopted thereunder.

(j) The office may suspend or withdraw approval of any or all pilot projects with notice, but without hearing if it determines that patient safety is being jeopardized.

(k) The office may charge applicants and participants in the program a reasonable fee to cover its actual cost of administering the pilot program and the cost of any committee created under this section.

(*l*) The office may contract with a medical consultant or other advisers as necessary, as determined by the office. Due to the necessity to expedite the demonstration project and its extremely specialized nature, the contracts shall be exempt from the provisions of Section 10373 of the Public Contract Code, and shall be considered sole-source contracts.

(m) The office may adopt emergency regulations to implement this section in accordance with Section 11346.1 of the Government Code, except that the regulations shall be exempt from the requirements of subdivisions (e), (f), and (g) of that section. The regulations shall be deemed an emergency for the purposes of Section 11346.1.

Applications to establish any of the four project sites authorized by the amendments made to this section during the 1987–88 Regular Session of the California Legislature shall be considered by the office from among the applications submitted to it in response to its initial request for proposal process.

SEC. 2. Section 1250.10 is added to the Health and Safety Code, to read:

1250.10. (a) In addition to the 12 postsurgical care demonstration project sites authorized in Section 1250.9, the office may approve one additional freestanding demonstration project, in accordance with the requirements of Section 1250.9, in a site that is in a rural area. For the purposes of this section, "rural area" means any area of the state which is not in a metropolitan statistical area as described in the publication "State and Metropolitan Area Data Book," 1986, published by the United States Department of Commerce.

(b) In order to receive applications for this one additional rural project site, the office shall accept additional applications until October 31, 1988.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The postsurgical care demonstration project governed by this act is a limited-term project which is currently being developed by the Office of Statewide Health Planning and Development. In order for the office to collect the level of fees necessary to pay for the cost of development, it is necessary that this act take effect immediately.

CHAPTER 950

An act to add Section 56161 to the Government Code, relating to annexation.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 56161 is added to the Government Code, to read:

56161. In addition to the requirements of notice prescribed in this chapter or by other provisions of law, in the case of a proposed annexation to a city of affected territory consisting of 75 acres or less, that city shall mail, pursuant to Sections 56155 to 56157, inclusive, to each landowner within the affected territory, notice of the conducting authority hearing on the proposed annexation.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 951

An act to amend Section 18897.2 of the Health and Safety Code, relating to building standards.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 18897.2 of the Health and Safety Code is amended to read:

18897.2. (a) Except as provided in Section 18930, the Director of Health Services shall adopt, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division

3 of Title 2 of the Government Code, rules and regulations establishing minimum standards for organized camps and regulating the operation of organized camps that the director determines are necessary to protect the health and safety of the campers. Organized camps shall also comply with the building standards of the jurisdiction in which the camp is located, to the extent that those standards are not contrary to, or inconsistent with, the building standards adopted by the Director of Health Services. The Director of Health Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 for the purposes described in this section. The State Department of Health Services shall enforce building standards published in the State Building Standards Code relating to organized camps and such other rules and regulations adopted by such director pursuant to the provisions of this section as such director determines are necessary to protect the health and safety of campers. In adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and in adopting such other rules and regulations pursuant to the provisions of this section, the Director of Health Services shall consider the Camp Standards of the American Camping Association.

(b) The Director of Health Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 and shall adopt such other rules and regulations pursuant to the provisions of this section establishing minimum standards for intermittent short-term organized camps operated by a city or a county as the director deems necessary to protect the health and safety of campers. For the purposes of this subdivision, "intermittent short-term organized camps" means a site for camping by any group of people for a period of not more than 72 consecutive hours for such group.

CHAPTER 952

An act to amend Sections 37700 and 37705 of the Education Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Due to some of the most severe temperature extremes faced by any school district in the state and the unusually long daily commute distances of 130 to 150 miles for some of its pupils, the Death Valley Unified School District spends an inordinate amount of

its budget on heating, cooling, and transportation costs.

Due to these costs and the lack of appropriated funds to support general education, the district is bordering on financial insolvency and extinction.

(b) The Pacific Elementary School District is currently faced with a severe financial deficit and significant pupil attendance problems, both of which are exacerbated by the need to transport its pupils to school from areas in the district that require a travel time in excess of one hour in each direction.

(c) The Needles Unified School District is similarly faced with some of the most severe temperature extremes faced by any school district in the state and some of its pupils have unusually long daily commutes to school with distances of up to 150 miles in nonair-conditioned buses. The Needles Unified School District spends an inordinate amount of its budget on cooling and transportation costs.

(d) In order for these districts to continue to provide education to widely dispersed populations, it is necessary that they be permitted to operate schools on the basis of a four-day school week.

SEC. 2. Section 37700 of the Education Code is amended to read:

37700. (a) Notwithstanding any other provision of law, the Death Valley Unified School District, the Needles Unified School District, and the Pacific Elementary School District may each operate one or more schools in the district on a four-day school week during the 1988–89 school year and each year thereafter through the 1992–93 school year, so long as the district complies with the instructional time requirements specified in Section 37701 and the other requirements of this chapter.

(b) If a school district operates a four-day week pursuant to this section and the program for the school year provides less than the 180 days of instruction required under Section 46200, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year by the amount the school district would have received for the increase received pursuant to subdivision (a) of Section 46200, as adjusted in fiscal years subsequent to the 1984–85 fiscal year. If a school district operates a four-day school week pursuant to this section and the program provides less than the minimum instructional minutes required under Section 46201, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year in which the reduction occurs by the amount the school district would have received for the increase in the 1987–88 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987–88 fiscal year and fiscal years thereafter.

SEC. 3. Section 37705 of the Education Code is amended to read:

37705. On or before November 15, 1989, and annually on or before November 15 of each year thereafter through 1993, the

district shall report to the Legislature and to the State Department of Education regarding the following:

(a) The impact of the experimental program on pupil achievement.

(b) The impact of the experimental program on district operating costs.

(c) The reactions of parents, pupils, and staff to the experimental program.

SEC. 4. Due to the unique circumstances regarding the Death Valley Unified School District, Needles Unified School District, and the Pacific Elementary School District, as set forth in Section 1, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to authorize the Pacific Elementary School District and Needles Unified School District to commence, and the Death Valley Unified School District to continue, the operation of schools on a four-day school week, as essential to respond to the critical circumstances described in Section 1 of this act, it is necessary that this act take effect immediately.

CHAPTER 953

An act to amend Section 2115 of the Corporations Code, relating to corporations.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 2115 of the Corporations Code is amended to read:

2115. (a) A foreign corporation (other than a foreign association or foreign nonprofit corporation but including a foreign parent corporation even though it does not itself transact intrastate business) is subject to this section if the average of the property factor, the payroll factor and the sales factor (as defined in Sections 25129, 25132 and 25134 of the Revenue and Taxation Code) with respect to it is more than 50 percent during its latest full income year and if more than one-half of its outstanding voting securities are held of record by persons having addresses in this state. The property factor, payroll factor and sales factor shall be those used in computing the portion of its income allocable to this state in its franchise tax

return or, with respect to corporations the allocation of whose income is governed by special formulas or which are not required to file separate or any tax returns, which would have been so used if they were governed by such three-factor formula. The determination of these factors with respect to any parent corporation shall be made on a consolidated basis, including in a unitary computation (after elimination of intercompany transactions) the property, payroll and sales of the parent and all of its subsidiaries in which it owns directly or indirectly more than 50 percent of the outstanding shares entitled to vote for the election of directors, but deducting a percentage of the property, payroll, and sales of any subsidiary equal to the percentage minority ownership, if any, in the subsidiary. For the purpose of this subdivision, any securities held to the knowledge of the issuer in the names of broker-dealers, nominees for broker-dealers, (including clearing corporations) or banks, associations, or other entities holding securities in a nominee name or otherwise on behalf of a beneficial owner (collectively "Nominee Holders"), shall not be considered outstanding. However, if the foreign corporation requests all Nominee Holders to certify, with respect to all beneficial owners for whom securities are held, the number of shares held for those beneficial owners having addresses (as shown on the records of the Nominee Holder) in this state and outside of this state, then all shares so certified shall be considered outstanding and held of record by persons having addresses either in this state or outside of this state as so certified, provided that the certification so provided shall be retained with the record of shareholders and made available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record. A current list of beneficial owners of a foreign corporation's securities provided to the corporation by one or more Nominee Holders or their agent pursuant to the requirements of Rule 14b-1(c) or 14b-2(e) as adopted on December 9, 1986, promulgated under the Securities Exchange Act of 1934 shall constitute an acceptable certification with respect to beneficial owners for the purposes of this subdivision.

(b) The following chapters and sections of this division shall apply to a foreign corporation subject to this section (to the exclusion of the law of the jurisdiction in which it is incorporated):

Chapter 1 (general provisions and definitions), to the extent applicable to the following provisions;

Section 301 (annual election of directors);

Section 303 (removal of directors without cause);

Section 304 (removal of directors by court proceedings);

Section 305, subdivision (c) (filing of director vacancies where less than a majority in office elected by shareholders);

Section 309 (directors' standard of care);

Section 316 (excluding paragraph (3) of subdivision (a) and paragraph (3) of subdivision (f)) (liability of directors for unlawful distributions);

Section 317 (indemnification of directors, officers and others);

Sections 500 to 505, inclusive (limitations on corporate distributions in cash or property);

Section 506 (liability of shareholder who receives unlawful distribution);

Section 600, subdivisions (b) and (c) (requirement for annual shareholders' meeting and remedy if same not timely held);

Section 708, subdivisions (a), (b) and (c) (shareholder's right to cumulate votes at any election of directors);

Section 1001, subdivision (d) (limitations on sale of assets);

Section 1101 (provisions following subdivision (e)) (limitations on mergers);

Chapter 12 (commencing with Section 1200) (reorganizations);

Chapter 13 (commencing with Section 1300) (dissenters' rights);

Sections 1500 and 1501 (records and reports);

Section 1508 (action by Attorney General);

Chapter 16 (commencing with Section 1600) (rights of inspection).

(c) Subdivision (a) shall become applicable to any foreign corporation only upon the first day of the first income year of the corporation commencing on or after the 30th day after the filing by it of the report pursuant to Section 2108 showing that the tests referred to in subdivision (a) have been met or on or after the entry of a final order by a court of competent jurisdiction declaring that such tests have been met.

(d) Subdivision (a) shall cease to be applicable at the end of any income year during which a report pursuant to Section 2108 shall have been filed showing that at least one of the tests referred to in subdivision (a) is not met or a final order shall have been entered by a court of competent jurisdiction declaring that one of such tests is not met, provided that such filing or order shall be ineffective if a contrary report or order shall be made or entered before the end of such income year.

(e) This section does not apply to any corporation (1) with outstanding securities listed on the New York Stock Exchange or the American Stock Exchange, or (2) with outstanding securities designated as qualified for trading as a national market security on the National Association of Securities Dealers Automatic Quotation System (or any successor national market system) if such corporation has at least 800 holders of its equity securities as of the record date of its most recent annual meeting of shareholders, or (3) if all of its voting shares (other than directors' qualifying shares) are owned directly or indirectly by a corporation or corporations not subject to this section. For purposes of determining the number of holders of a corporation's equity securities under clause (2) of this subdivision, there shall be included, in addition to the number of recordholders reflected on the corporation's stock records, the number of holders of the equity securities held in the name of any Nominee Holder which furnishes the corporation with a certification pursuant to

subdivision (a) provided that the corporation retains the certification with the record of shareholders and makes it available for inspection and copying in the same manner as is provided in Section 1600 with respect to that record.

CHAPTER 954

An act to amend Sections 3705.5, 3709, 3711, 4009.5, 4010, and 4011 of the Elections Code, relating to initiatives.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 3705.5 of the Elections Code is amended to read:

3705.5. (a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 3709, or Section 3711, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the county's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on county actions under Section 65008 of the Government Code, and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Any other matters the board of supervisors request to be in the report.

(b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors but no later than 30 days after the clerk certifies to the board of supervisors the sufficiency of the petition.

SEC. 2. Section 3709 of the Elections Code is amended to read:

3709. If the initiative petition is signed by voters not less in number than 20 percent of the entire vote cast within the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the board of supervisors shall either:

(a) Pass the ordinance without alteration either at the regular meeting at which it is presented or within 10 days after it is presented.

(b) Immediately call a special election at which the ordinance, without alteration, shall be submitted to a vote of the voters of the

county.

(c) Order a report pursuant to Section 3705.5 at the regular meeting at which the ordinance is presented. When the report is presented to the board of supervisors, it shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

SEC. 3. Section 3711 of the Elections Code is amended to read:

3711. If the initiative petition is signed by voters not less in number than 10 percent of the entire vote cast in the county for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate an initiative petition, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the board of supervisors, the ordinance, without alteration, shall be submitted by the board to the voters at the next statewide election occurring not less than 88 days after the date of the order, or after the board of supervisors is presented with a report prepared pursuant to Section 3705.5.

SEC. 4. Section 4009.5 of the Elections Code is amended to read:

4009.5. (a) During the circulation of the petition, or before taking either action described in subdivisions (a) and (b) of Section 4010, or Section 4011, the legislative body may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

(1) Its fiscal impact.

(2) Its effect on the internal consistency of the city's general and specific plans including the housing element, the consistency between planning and zoning, the limitations on city actions under Section 65008 of the Government Code, Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.

(3) Any other matters the council requests to be in the report.

(b) The report shall be presented to the legislative body within the time prescribed by the legislative body but no later than 30 days after the clerk certifies to the legislative body the sufficiency of the petition.

SEC. 5. Section 4010 of the Elections Code is amended to read:

4010. If the initiative petition is signed by not less than 15 percent of the voters of the city according to the last report of registration by the county clerk to the Secretary of State pursuant to Section 607 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and contains a request that the ordinance be submitted immediately to a vote of the people at a special election, the legislative body shall either:

(a) Introduce the ordinance without alteration at the regular meeting at which it is presented and adopt the ordinance within 10 days after it is presented; or

(b) Immediately order a special election, to be held not less than 88 nor more than 103 days after the date of the order, at which the ordinance, without alteration, shall be submitted to a vote of the voters of the city.

(c) Order a report pursuant to Section 4009.5 at the regular meeting at which the ordinance is presented. When the report is presented to the legislative body, the legislative body shall either adopt the ordinance within 10 days or order an election pursuant to subdivision (b).

SEC. 6. Section 4011 of the Elections Code is amended to read:

4011. If the initiative petition is signed by not less than 10 percent of the voters of the city according to the last report of registration by the county clerk to the Secretary of State pursuant to Section 607 effective at the time the notice specified in Section 4002 was published, or in a city with 1,000 or less registered voters by the signatures of 25 percent of the voters or 100 voters of the city, whichever is the lesser number, and the ordinance petitioned for is not required to be, or for any reason is not, submitted to the voters at a special election, and is not passed without change by the legislative body, then the ordinance, without alteration, shall be submitted by the legislative body to the voters at the next regular municipal election occurring not less than 88 days after the order of the legislative body, or after the legislative body is presented with a report prepared pursuant to Section 4009.5.

CHAPTER 955

An act to amend Sections 14998.1, 14998.2, and 15335.22 of, to add Sections 14999.20, 14999.21, and 14999.35 to, and to repeal Sections 14998.15 and 14998.17 of, the Government Code, relating to film permits.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 14998.1 of the Government Code is amended to read:

14998.1. The Legislature finds that motion picture production in California provides unique and significant contributions to the economy of California and to the cultural enrichment of its citizens, as well as providing a unique form of entertainment for the state, country, and the world at large. The Legislature finds that expenditures for hotels, catered food, leases of equipment and property, transportation, and wages and salaries paid to individuals in California as a result of motion picture production benefit the California economy directly and indirectly.

However, the Legislature finds that the significant benefits provided to California by motion picture production are in jeopardy as a result of the concerted efforts of other states and countries to lure this production away from California.

Therefore, the Legislature finds a need for concerted efforts by California state and local governments to provide an environment supportive of, and conducive to, the undertakings of the motion picture industry in this state. A key element of this effort is to make California as unifom as possible in the local regulation and permitting of the film industry; as close to a "one-stop permitting" approach as possible.

SEC. 2. Section 14998.2 of the Government Code is amended to read:

14998.2. (a) There is in the Department of Commerce, the California Film Commission consisting of 26 members. The Governor shall appoint 13 members, the Senate Rules Committee shall appoint four members, the Speaker of the Assembly shall appoint four members, and five members shall be ex officio. The members of the commission appointed by the Governor may include representatives of state and local government, motion picture development companies, employee and professional organizations composed of persons employed in the motion picture industry, and other appropriate members of this or related industries.

All members of the commission, except legislators who are appointed either by the Senate Rules Committee or by the Speaker of the Assembly, shall serve at the pleasure of the appointing authority for a term of two years from the effective date of the appointment.

(b) One of the members appointed by the Senate Rules Committee shall, and another one may, be a Senator and one of the members appointed by the Speaker shall, and another one may, be a Member of the Assembly. Such persons shall be appointed for terms of four years.

Of the legislators appointed to the commission, no more than three legislators from the same political party may be appointed to or serve on the commission at the same time.

(c) Any legislator appointed shall serve as a voting member of the commission, and shall meet with, and participate in the activities of, the commission to the extent that participation is not incompatible with his or her position as a Member of the Legislature, but shall only serve in that capacity while concurrently serving as a Member of the Legislature. Whenever a legislator vacates an office, the appointing power shall appoint another person for a new full term.

(d) Six of the 13 members appointed by the Governor shall be as follows:

(1) One shall be a person who is a member or employee of a union or guild of motion picture artists.

(2) One shall be a person who is a member or employee of a union or guild representing motion picture craftsmen, technicians, or

photographers.

(3) Two shall be from major motion picture studios.

(4) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of at least two million people.

(5) One shall be a member of the city council or a member of the county board of supervisors of a city or a county with a population of less than two million people.

(e) The Director of Transportation shall serve as an ex officio nonvoting member.

(f) The Director of Parks and Recreation shall serve as an ex officio nonvoting member.

(g) The Commissioner of the California Highway Patrol shall serve as an ex officio nonvoting member.

(h) The State Fire Marshal shall serve as an ex officio nonvoting member.

(i) The director of the commission shall serve as an ex officio nonvoting member.

SEC. 3. Section 14998.15 of the Government Code is repealed.

SEC 4. Section 14998.17 of the Government Code is repealed.

SEC. 5. Section 14999.20 is added to the Government Code, to read:

14999.20. The California Film Commission shall, with input from the motion picture industry and local and state government, develop and adopt a 'model process for granting film permits." The process shall contain but not be limited to the following provisions:

(a) A designated person to deal with industry whose responsibilities shall include but not be limited to:

(1) The attraction of motion picture production to the jurisdiction.

(2) Assistance in expediting to the greatest extent possible the issuances of all use permits necessary for motion picture production.

(b) Maximum time requirements to grant permits.

(c) Permits shall be valid for the period of time necessary to film a specific shot or sequence of shots. Minor additions, corrections or alterations to a permit shall be made available by way of application for a "rider." Significant changes to the original permit shall require a new permit application.

(d) Coordinating of multijurisdictional filming.

(e) A suggested fee schedule for motion picture permits which is reasonably related to the cost of providing services occasioned by motion picture production, including administrative, police, fire, sanitation, and other necessary services.

(f) A uniform permit application-permit form.

If the California Film Commission has not adopted a model process for granting film permits by July 1, 1989, the existing "model film ordinance" and the uniform film permit application form drafted by the California Film Commission staff shall be used for the purposes of this chapter until the time as a model process is adopted.

SEC. 6. Section 14999.21 is added to the Government Code, to read:

14999.21. (a) The California Film Commission shall send to each city and county a copy of the model process for granting film permits for local consideration. Not later than December 31, 1989, each jurisdiction shall adopt this process or inform the California Film Commission in writing as to why they cannot or need not adopt this model process.

(b) At least 30 days prior to the adoption of or an amendment to the written filming policy of a local government, the local government shall submit a draft of the ordinance or amendment to the California Film Commission director. The California Film Commission shall review drafts submitted to it and report its findings to the local government within five working days of receipt of the draft. The local legislative body shall consider the California Film Commission's findings prior to final adoption of the ordinance or amendment unless the commission's findings are not available within the above prescribed time limits. Any and all findings made by the commission pursuant to this section shall be advisory to local government.

(c) Each local government shall provide the commission with a copy of its adopted filming ordinance or amendments.

SEC. 7. Section 14999.35 is added to the Government Code, to read:

14999.35. No fee which is greater than the actual cost incurred shall be charged by any county, city, city and county, or special district for film production which occurs entirely on private property.

SEC. 8. Section 15335.22 of the Government Code is amended to read:

15335.22. (a) (1) The California Film Commission shall develop and implement a Cooperative Motion Picture Marketing Plan. The plan shall increase the marketing efforts of the commission, and offer state resources to local film commissions and local government liaisons to the film industry for the purpose of marketing their locales to the motion picture industry.

(2) In addition to paragraph (1), the resources offered under the plan for marketing shall be used to recruit local government participation in, and development of, local film commissions.

(3) For purposes of this section, resources offered to local film commissions and local government liaisons to the motion picture industry shall include all of the following:

(A) Grants for partial or full funding of the cost to develop or participate in workshops, trade shows, seminars, or meetings that assist local governments to promote and market the use of their locales by the motion picture industry. Eligible meetings shall also include those called or approved by the director to further the purposes of the Cooperative Motion Picture Marketing Plan.

(B) The services of a professional photographer, including

material and expenses, to take still photographs of motion picture locations for inclusion in the location resource library established pursuant to Section 15335.21. Whenever possible, the photographer shall be hired from the local area participating in the Cooperative Motion Picture Marketing Plan.

(C) Appropriate promotional and informational materials for the purpose of mailing or distributing to the motion picture industry. The materials shall include, but not be limited to, brochures, print ads, and direct marketing materials which state the benefits and advantages of producing motion pictures within the state or the locales participating in the Cooperative Motion Picture Marketing Plan.

(b) Any resource requested under the provisions of the Cooperative Motion Picture Marketing Plan not specified in this section shall be subject to the approval of the California Film Commission.

(c) The California Film Commission, pursuant to subdivision (c) of Section 15335.21, shall expand and upgrade the location resource library through the use of a librarian, a computerized catalog system, and a professional photographer.

(d) As a condition of eligibility for the use of resources pursuant to this section, a local government shall demonstrate substantial compliance with the model process for granting film permits described in Section 14499.20.

(e) The commission shall adopt additional guidelines as needed for the implementation of the plan.

(f) The purpose of the Cooperative Motion Picture Marketing Plan is in no way to discourage, limit, or impede the participation of local governments in the Film Liaisons in California, Statewide, commonly referred to as F.L.I.C.S.

(g) As used in this section, "motion picture" shall include, but not be limited to, production in film, video, television, commercial, and still photography.

SEC. 9. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 956

An act to add Section 14132.34 to the Welfare and Institutions Code, relating to mothers' milk banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. This act shall be known and may be cited as the Mothers' Milk Act.

SEC. 2. It is the intent of the Legislature that mothers' milk banks, as defined in Section 14132.34 of the Welfare and Institutions Code, shall be providers subject to reimbursement under the Medi-Cal program.

SEC. 3. Section 14132.34 is added to the Welfare and Institutions Code, to read:

14132.34. (a) Human milk and human milk derivatives supplied by a mothers' milk bank for human consumption are a covered service under this chapter.

(b) For purposes of this section, "mothers' milk bank" means any person, firm, or corporation which engages in the not-for-profit procurement, processing, storage, distribution, or use of human milk, contributed by volunteer donors, in compliance with standards prescribed by the Human Milk Banking Association of North America.

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

In order to make mothers' milk available under the Medi-Cal program as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 957

An act relating to drought assistance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. The Legislature hereby finds and declares as follows:

(a) 1987 and 1988 have been successive critically dry years and water shortages are now occurring in some areas of the state.

(b) If 1989 is also dry, there will be widespread areas of water shortage. These shortages, especially shortages affecting urban areas, agricultural areas with permanent crops, and fisheries would have a serious impact on California's economy.

(c) The Department of Water Resources is taking action to assist areas of water shortage this year. The department has established a statewide Drought Center as a clearinghouse of the technical and financial assistance information which is available to address and lessen drought impacts and has formed an Interagency Drought Task Force to identify and coordinate existing drought assistance measures. The department is now beginning to concentrate on actions that may be needed in 1989 should the current drought continue.

SEC. 2. The Legislature directs the Department of Water Resources to identify the areas of the state in which a third year of drought could impose severe health, economic, and environmental hardship. The department, in coordination with local representatives and other state and federal agencies, including the Department of Fish and Game, shall develop options for addressing the water supply shortages in the identified areas of potential need, and for protection of fish and wildlife. In its consideration of water supply options, the department shall consider, among other things, water conservation, expanded use of local groundwater supplies, emergency and temporary water quality protection facilities such as temporary barriers in the Sacramento-San Joaquin Delta, water transfers of developed supplies, and temporary interconnections that facilitate exchanges between surface water distribution systems. The department shall also identify the need for legislative or regulatory actions that may be needed to implement the emergency water supply options in a timely manner. The department should consider, in consultation with appropriate local, state, and federal agencies, regulatory or legislative actions including, but not limited to, reevaluating existing drinking water standards where those standards hamper implementation of emergency water supply options; accelerating regulatory processes; implementation of the California Environmental Quality Act; the processing of applications by existing water rights permit holders or licensees for temporary changes; and establishing an emergency financial assistance program that could include loans, loan guarantees, or grants to assist drought-stricken areas. The financial assistance could be used to finance the construction of temporary distribution system interconnections, the drilling of new wells, or other temporary drought related programs. The department shall report to the Legislature on its findings by January 21, 1989.

SEC. 3. The Legislature directs the Department of Water Resources to assist local representatives in the areas identified as potentially having severe shortages next year in implementing the

emergency water supply options developed pursuant to Section 2 which are currently authorized. The department shall provide assistance through the department's Drought Center to any water user needing help implementing an emergency drought related action. The department shall provide technical and financial expertise and shall assist water users through the state's regulatory system so necessary drought emergency actions are not unreasonably slowed by that system. All state agencies shall cooperate fully with the department in this effort.

SEC. 4. This act shall become inoperative if the May 1, 1989, forecast in the Department of Water Resources' Bulletin 120 indicates that the 1988–89 hydrologic year in the Sacramento River Basin is an above normal or wet year or upon a subsequent finding by the Director of Water Resources that the drought is over.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide effective drought relief at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 958

An act to amend Sections 66561, 66562, 66564, 66566, 66581, 66581.5, 66585, 66621, 66623, 66644, 66645, and 66646 of, and to add Section 66507 to, the Food and Agricultural Code, relating to lettuce.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 66507 is added to the Food and Agricultural Code, to read:

66507. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, and marketing research.

SEC. 2. Section 66561 of the Food and Agricultural Code is amended to read:

66561. There is hereby created the California Iceberg Lettuce Commission to be thus known and designated. The commission is composed of 19 members, of which 14 are handlers as defined in Section 66532, four are members-at-large of which two may be grower-handlers from Arizona who otherwise qualify pursuant to Section 66532, and one is a person who is neither a producer nor a handler and who is appointed specifically to represent the public generally.

SEC. 3. Section 66562 of the Food and Agricultural Code is

amended to read:

66562. The commission shall be and is hereby declared and created a corporate body. It shall have the power to sue and be sued, to contract and be contracted with, and to have and possess all of the powers of a corporation. It shall adopt a corporate seal. Copies of its proceedings, records, and acts, when certified by the secretary, shall be admissible in evidence in all courts of the state, and shall be prima facie evidence of the truth of all statements therein.

SEC. 4. Section 66564 of the Food and Agricultural Code is amended to read:

66564. Except as provided in Section 66561, each member of the commission is required to be a citizen and a resident of this state. Additionally:

(a) Each handler member is required to be currently engaged in the handling of iceberg lettuce. Not more than two handler members shall be employed by, or have a proprietary interest in, the same corporation, firm, partnership, association, or business organization. However, not more than one handler member in any one district shall be so employed or have such a proprietary interest.

(b) Each member-at-large is required to be a person, whether or not engaged in the production or marketing of iceberg lettuce, whose qualifications are appropriate to the needs of the commission. The person may be a handler who is not appointed as a handler member but who nevertheless is qualified under subdivision (a) to serve as a handler member.

(c) The person appointed to represent the public generally is required to be any person who is neither a producer nor a handler, whose qualifications are appropriate to the needs of the commission.

(d) The qualifications of members of the commission, as set forth in this section, shall continue during their term of office.

SEC. 5. Section 66566 of the Food and Agricultural Code is amended to read:

66566. The regular term of office for handler members of the commission is three years, commencing April 1 of any year in which they are appointed, and, except with respect to the first of the members, each serves as follows:

(a) District 1: one serves for three years.

(b) District 2: one serves for one year, one serves for two years, and one serves for three years.

(c) District 3: two serve for two years and one serves for three years.

(d) District 4: one serves for one year, two serve for two years, and two serve for three years.

(e) District 5: one serves for two years and one serves for three years.

SEC. 6. Section 66581 of the Food and Agricultural Code is amended to read:

66581. (a) Except as provided in subdivision (b), nine members of the commission, of which at least eight are handler members,

constitute a quorum at any meeting for the transaction of all business and the carrying out of the duties of the commission. However, pending the appointment of initial members-at-large and the public representative, eight handler members constitute the quorum. Members-at-large who are handlers may be deemed handler members, if necessary, to fulfill the requirements of a quorum. Unless otherwise provided by this chapter or fixed by the commission, the vote of a majority of the commission members present at the meeting and constituting a quorum shall constitute the act of the commission.

(b) Ten members of the commission, of which at least nine are handler members, constitute a quorum during any period in which the commission is increased to 19 members pursuant to Section 66561. All other provisions of subdivision (a) otherwise apply to this subdivision.

SEC. 7. Section 66581.5 of the Food and Agricultural Code is amended to read:

66581.5. The director or his or her representatives shall be notified and may attend each meeting of the commission and any committee meeting of the commission.

SEC. 8. Section 66585 of the Food and Agricultural Code is amended to read:

66585. The powers and duties of the commission include, but are not limited to, all of the following:

(a) To elect a chairman and, from time to time, any other officers that it may deem advisable and to delegate to these officers any administrative duties that may appear advisable.

(b) To adopt and, from time to time, alter, rescind, modify, and amend all proper and necessary administrative bylaws, rules, regulations, and orders for the exercise of its powers and the performance of its duties, including rules for regulation of appeals from any bylaw, rule, regulation, or order of the commission.

(c) To administer and enforce this chapter, and to do and perform all acts and exercise all powers incidental to, or in connection with, or deemed reasonably necessary, proper, or advisable to effectuate this chapter.

(d) To employ a person to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, that is necessary to carry out this chapter. The Attorney General shall aid and assist the commission upon its request and shall undertake judicial proceedings requested by the commission to undertake on its behalf.

(e) To establish offices and incur expense, and to enter into any and all contracts and agreements, and to create any liabilities and borrow any funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(f) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual private audit by an auditing firm selected by the commission and approved by the director. The audit shall be made a part of an annual report to all handlers of iceberg lettuce, copies of which shall also be submitted to the Legislature. In addition, the director may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(g) To investigate and prosecute civil violations of this chapter and to file complaints with appropriate law enforcement agencies or officers for criminal violations of this chapter.

(h) To maintain or expand the demand for iceberg lettuce nationally and abroad by means of promotional, educational, and similar programs and activities, including, but not limited to, the advertising and publicizing of iceberg lettuce in all forms of media, providing merchandising services and materials, conducting educational meetings and demonstrations, and sponsoring or participating in appropriate trade and food conferences.

(i) To undertake market, transportation, and other pertinent studies and surveys; to present facts to, and negotiate with, private and governmental bodies and agencies on matters affecting sales and distribution and other concerns of iceberg lettuce production and marketing; and to undertake any other similar activities which the commission may determine appropriate for the maintenance and expansion of present markets and the creation of new and larger markets for iceberg lettuce.

(j) To make, in the name of the commission, contracts to render service in formulating and conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of iceberg lettuce.

(k) To conduct, or contract with others to conduct, research as authorized by this chapter. In connection with this research, the commission may accept contributions of, or may match, private, state, or federal funds that may be available for these purposes, and may employ or make contributions of funds to other persons or state or federal agencies conducting this research.

(*l*) To determine, subject to the limitations provided in Section 66621, not later than March 31 of each year, the assessment for the following 12-month period beginning April 1 and ending March 31.

(m) To publish and distribute without charge bulletins or other communications for dissemination of information relating to the iceberg lettuce industry to producers, shippers, and handlers.

(n) To enter into cost-sharing advertising and sales promotion with organizations representing other products, and with producers, handlers, and other persons involved in marketing iceberg lettuce, either individually or collectively, who are not subject to this chapter.

(o) To fix the compensation for all employees of the commission.

(p) To appoint committees composed of both members and

nonmembers of the commission to advise the commission in carrying out this chapter.

(q) To administer any state or federal program engaged in activities affecting iceberg lettuce.

SEC. 9. Section 66621 of the Food and Agricultural Code is amended to read:

66621. (a) There is hereby levied and imposed upon all iceberg lettuce harvested and marketed in each fiscal year, an assessment to be paid by the handlers of the lettuce and fixed by not less than 10 of the 14 handler members of the commission at the amount determined by these commissioners as reasonably necessary to pay all obligations incurred, or expected to be incurred, in accordance with this chapter and as reasonably necessary to carry out the objects and purposes of this chapter.

(b) The assessment shall not exceed two and one-half cents ($0.025) per standard carton of packed iceberg lettuce or five cents per hundred pounds ($0.05 per cwt.) of iceberg lettuce prepared for market or equivalent basis.

(c) A fee greater than the amount provided for in subdivision (b) may not be charged unless and until a greater fee is approved by handlers, as defined in Section 66532, under the procedures in Section 66601.

(d) There shall be exempt from the assessments all shipments of 150 pounds or less of iceberg lettuce sold or shipped by a handler directly to the consumer.

SEC. 10. Section 66623 of the Food and Agricultural Code is amended to read:

66623. Every handler shall, at such times as the commission may by rule or regulation require, file with the commission a report, under oath, on forms to be prescribed and furnished by the commission, stating the quantity of iceberg lettuce handled by him or her during the period or periods of time prescribed by the commission, the names of the producers in each district for which the handling was done, and further information as may be necessary in the discretion of the commission to carry out the object and purposes of this chapter.

SEC. 11. Section 66644 of the Food and Agricultural Code is amended to read:

66644. Any proceeding by the commission to enforce this chapter or by a handler applying for relief from rules, orders, or regulations of the commission may be commenced either in the county in which the defendant or any of the defendants reside or in which any act or omission or part thereof complained of occurred, or in the county of the principal office of the commission. The commission may be sued only in the county of its principal office.

SEC. 12. Section 66645 of the Food and Agricultural Code is amended to read:

66645. It shall be a misdemeanor to do any of the following:

(a) For any person to violate or aid in the violation of this chapter

or any rule or regulation of the commission.

(b) For any person to willfully render or furnish a false or fraudulent report, statement, or record required by the commission pursuant to this chapter or any rules or regulations of the commission.

(c) For any person engaged in the handling of iceberg lettuce to fail or refuse to furnish to the commission or its duly authorized agents, upon request, information concerning the names and addresses of the persons from whom he or she has received iceberg lettuce and the quantity of the commodity so received.

(d) For any person to secrete, destroy, or alter records required to be kept under this chapter.

SEC. 13. Section 66646 of the Food and Agricultural Code is amended to read:

66646. The commission shall have the right to inspect the premises, books, records, documents, and all other instruments of any carrier, railroad, truck, boat, grower, shipper, handler, dealer, or retailer, to the extent the premises, books, records, documents and other instruments pertain to persons subject to the chapter for the purpose of enforcing this chapter and collecting the assessments levied under authority of this chapter. In the event of refusal of any person to allow the inspection, the commission may apply to any court for the issuance of a subpoena to compel such an inspection.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 959

An act to amend Sections 8687, 8803, 8806, 8807, 8808, 8830, 8832, 8833, 8834, 22625, and 22629 of, and to add Sections 8833.5 and 8836 to, the Streets and Highways Code, relating to improvement bonds.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 8687 of the Streets and Highways Code is amended to read:

8687. Any assessment, except an assessment on land which has been ordered to judicial foreclosure pursuant to Section 8830, may be paid by depositing with the treasurer the total unpaid balance due on the assessment together with the total interest which would become due on the assessment if it were paid in the regular way. If

the amount of the payment, along with prepayments of other assessments and other available amounts, is sufficient to provide surplus moneys with which to redeem any bond outstanding and not due on the next succeeding second day of September, the treasurer shall then give the proper notice for redeeming the bond, by advancing its maturity in accordance with Part 11 (commencing with Section 8750) upon which redemption the person paying the assessment shall be entitled to credit and reimbursement for the par value of any interest payments thereon which shall be canceled but not paid less any accrued interest paid thereon and less the premium paid on the bond, and less any costs incurred for administering the retirement of the bond, including costs in connection with the addendum specified in this section. The treasurer shall also record an addendum to the notice of assessment recorded pursuant to Section 3114 which shall state that the recorded assessment against the identified parcel or parcels has been paid in full, and that the associated lien against those parcels has been fully discharged. The addendum and its recording have no effect on the powers of the legislative body with respect to any identified parcel by reason of its inclusion in the assessment district or assessment for the work, acquisitions, or improvements, and a statement to that effect shall be included in the addendum recorded pursuant to this section.

SEC. 2. Section 8803 of the Streets and Highways Code is amended to read:

8803. If a county or a city whose taxes are collected by the county is conducting the proceedings and sales for nonpayment of the taxes are made to the state, the state shall be the purchaser at any sale hereunder, but shall hold the title acquired at the sale upon behalf of the county or the city and shall account to the county or the city for any moneys received upon redemption or from the sale of the property. In that case, for the purposes of this division, the county or the city shall be deemed to be the real purchaser. In other cases where under the law the city is not always the purchaser at sales for delinquent city taxes, the city shall become the purchaser at any delinquent sale hereunder where there is no other purchaser, except that this requirement shall not apply to sales of property for the nonpayment of assessments securing bonds with respect to which the city has determined to limit its obligations pursuant to subdivision (b) of Section 8769.

SEC. 3. Section 8806 of the Streets and Highways Code is amended to read:

8806. Notwithstanding Section 8805, if a city purchases property at a delinquent sale pursuant to this part, the city shall, unless a resale has been made by it, from time to time when due, pay and transfer into the redemption fund the amount of any future delinquent installments of the assessment and interest thereon pending redemption, and no redemption shall be made until any subsequent payments, with interest and penalties, are paid.

SEC. 4. Section 8807 of the Streets and Highways Code is

amended to read:

8807. Except as otherwise provided by Section 8836, the purchaser, at the tax collector's sale, or at a resale by the city if the city has become the purchaser, or at a foreclosure sale by order of court, shall take the property subject to all unpaid installments of principal or interest on any assessment or reassessment, interest and penalties, costs, fees, and other charges under the same proceeding which are not satisfied by application of the sales proceeds, and subject to all public improvement assessments which may have priority thereover.

SEC. 5. Section 8808 of the Streets and Highways Code is amended to read:

8808. The city shall have the right to advance and pay any other taxes wherever necessary to protect its interest in property against which there is a delinquent assessment. It may also, at its discretion, temporarily transfer moneys into the redemption fund from other funds in which the moneys are not immediately needed. If the city has determined to obligate itself to use available funds to cure any deficiency in the redemption fund pursuant to subdivision (a) of Section 8769, it shall temporarily transfer available funds to the redemption fund upon determining that a deficiency exists. The moneys so transferred are to be used to pay sums due from the redemption fund and to be retransferred therefrom out of the first available receipts.

SEC. 6. Section 8830 of the Streets and Highways Code is amended to read:

8830. (a) As a cumulative remedy, if any assessment or reassessment or installment thereof, or of any interest thereon, together with any penalties, costs, fees, and other charges accruing under applicable taxation provisions are not paid when due, the legislative body may order that the same be collected by an action brought in the superior court to foreclose the lien thereof as provided by this part.

(b) The legislative body may, by resolution adopted prior to issuance of bonds under this division, covenant for the benefit of bondholders to commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of any assessments or reassessments which secure the bonds that are to be issued. The resolution may specify a deadline for commencement of the foreclosure action and other terms and conditions as the legislative body may determine to be reasonable regarding the foreclosure action.

(c) Except as provided in Section 8836, all installments, interest, penalties, costs, fees, and other charges that are delinquent at the time of the ordering of a foreclosure action shall be collected in the action. In the event that a lot or parcel of property has not been sold pursuant to judgment in the foreclosure action at the time that subsequent installments and interest become delinquent, the court may include the subsequent installments, interest, penalties, costs,

fees, and other charges in the judgment or modified judgment.

SEC. 7. Section 8832 of the Streets and Highways Code is amended to read:

8832. (a) The court shall have the power to adjudge and decree a lien against the lot or parcel of property covered by the assessment or reassessment for the amount of the judgment and to order the premises to be sold on execution as in other cases of the sale of real property by the process of the court.

(b) Except as provided in Section 8836, the lot or parcel may not be sold unless the amount to be paid pursuant to the bid equals or exceeds the sum of all of the following amounts:

(1) The amount of the judgment with costs and interest thereon.

(2) Costs and interest on the judgment accruing after issuance of the writ pursuant to which the sale is conducted.

(3) The levying officer's costs.

(4) Any other amounts which are required by law to be bid in order that the lot or parcel may be sold.

(c) The city may bid at the price provided for by subdivision (b) by giving the levying officer a written receipt crediting all or part of the amount required to satisfy the judgment, except that the city shall pay all of the following amounts in cash or by certified or cashier's check:

(1) The levying officer's costs remaining unsatisfied.

(2) The amount of any preferred labor claims.

(3) Exempt proceeds.

(4) Any other claim that is required by law to be satisfied.

(d) If the city becomes the purchaser pursuant to bid as provided for by subdivision (c), the city shall pay the amount that is required to satisfy the judgment into the redemption fund. From the amount that the city is required to pay into the redemption fund, the city shall reimburse the special reserve fund, if any, the amount, if any, of funds advanced from the special reserve fund to the redemption fund to cover delinquent installments of the assessment or reassessment and interest with respect to the lot or parcel of property which is sold. To the extent that the city has advanced funds other than, or in addition to, funds from a special reserve fund and the funds are included in the judgment, the obligation of the city to pay into the redemption fund is reduced by a corresponding amount.

(e) Notwithstanding subdivision (d), the city is not required to pay into the redemption fund any amount that exceeds in the aggregate the sum of all of the following:

(1) The amount required to bring current delinquent installments of the assessment or reassessment and interest with respect to which the lot or parcel of property is sold.

(2) Simple interest on all the amounts from the dates of delinquencies until the date of sale, at the rate or rates of the bonds.

(f) If the lot or parcel of property is sold at the execution sale to a purchaser other than the city, the city shall pay the sale proceeds that it receives into the redemption fund. From the amount that the

city is required to pay into the redemption fund, the city shall reimburse the special reserve fund, if any, the amount, if any, of funds advanced from the special reserve fund to the redemption fund to cover delinquent installments of the assessment or reassessment and interest with respect to the lot or parcel of property which is sold. If the special reserve fund, if any, is thereby reimbursed, the city may reimburse other funds advanced by the city to cover delinquent installments and interest, and may pay interest and penalties, costs, fees, and other charges, to the extent that they are included in the sale proceeds received.

(g) Notwithstanding subdivision (f), attorney fees and costs awarded by the judgment and postjudgment interest are not required to be paid into the redemption fund.

(h) The foreclosure action shall be governed and regulated by this division, and where not in conflict with this division, by the applicable laws of this state.

SEC. 8. Section 8833 of the Streets and Highways Code is amended to read:

8833. When any foreclosure actions are ordered, or when subsequent installments and interest that are also to be made the subject of a foreclosure action thereafter become delinquent, the tax collector shall be credited upon the assessment roll then in his or her hands with the amount charged against him or her on account of the assessments or reassessments to be sued on, and he or she shall be relieved of further duty in regard thereto. The tax collector, in addition to the costs recovered in foreclosure, may charge the actual costs incurred in removing these sums from the tax roll. Thereafter, the assessment or reassessment or installment thereof or interest thereon, and the penalties, costs, fees, and other charges accrued under applicable taxation provisions, that are ordered or are otherwise to be collected in a foreclosure action, shall no longer be collectible by the tax collector, but shall be collectible in the manner and to the extent provided by this part. Installments, interest, penalties, costs, fees, and other charges that do not become the subject of a foreclosure action shall remain collectible by the tax collector as otherwise provided by applicable law.

SEC. 9. Section 8833.5 is added to the Streets and Highways Code, to read:

8833.5. At any time after the tax collector has been relieved of further duty with regard to amounts charged against him or her on account of the assessments or reassessments described by Section 8833 and prior to a judgment of foreclosure, the city shall dismiss the foreclosure action upon payment of the sum of all of the following amounts:

(a) The amount of any delinquent installments of principal or interest of the assessment or reassessment, together with interest and penalties, costs, fees, and other charges accrued thereon to the same extent that they accrue against real property for nonpayment of general property taxes, to the date of payment.

(b) Costs of suit, including, but not limited to, service and recording fees and the costs of abstract or report of search of, or litigation guaranty with respect to, all claims of interest in the land.

(c) Attorneys fees authorized by the city.

(d) The tax collector's costs authorized by Section 8833.

SEC. 10. Section 8834 of the Streets and Highways Code is amended to read:

8834. The foreclosure action shall be brought in the name of the city, and may be brought at any time prior to the expiration of four years subsequent to the last maturity of the principal of bonds secured by the assessment or reassessment. The complaint may be brief and include substantially only the following allegations with reference to the assessment or reassessment sought to be collected:

(a) That, on a date stated, the legislative body passed its resolution ordering certain work to be done, without describing the same.

(b) If the assessment was levied pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)), that work was done pursuant to the resolution.

(c) That an assessment to pay the cost of the work was duly made and was authorized to be collected, but remained unpaid on a stated date.

(d) That certain property (describing it) was assessed or reassessed a stated amount and that bonds upon the security of the assessment or reassessment were duly issued under this division, giving the date or dates of the bonds, their interest rate or rates, and the number of years the last maturity of the bonds were to run, but it is not necessary to state the amount, number, denomination, or other terms of the bonds.

(e) That, on a date stated, a certain sum came due against the described property on the assessment or reassessment and had not been paid and that the legislative body had ordered the action to foreclose.

SEC. 11. Section 8836 is added to the Streets and Highways Code, to read:

8836. (a) In the event a lot or parcel of property fails to sell for the minimum price required by Section 8832, the city may petition the court to modify its judgment and authorize the property to be sold at a lesser minimum price or without a minimum price.

(b) Written notice of hearing on the petition under subdivision (a) shall be given by certified or registered mail to all registered owners of any outstanding bonds secured, in whole or in part, by the delinquent assessment or reassessment, to the original purchaser of any of the bonds from the city, to the city treasurer, and to any authenticating agents, transfer agents, registrars, and paying or other agents of the city appointed with respect to any of the bonds. If any of the outstanding bonds are payable to bearer and not registered to other than bearer, notice of the hearing shall also be given by publication at least once in a financial publication with national circulation and additionally as the court shall reasonably require. The

hearing shall be held not earlier than 10 days after the notice is given.

(c) The court may, after a hearing held pursuant to notice as provided for by subdivision (b), modify the judgment and authorize the property to be sold at a lesser minimum price or without a minimum price, if the court determines, based on the evidence introduced at the hearing, any of the following:

(1) Sale at the lesser minimum price or without a minimum price will not result in an ultimate loss to the bondholders.

(2) Owners or holders of 75 percent or more of the outstanding bonds, by principal amount, have consented to the petition and the sale will not result in an ultimate loss to the nonconsenting bondholders.

(3) Owners or holders of 75 percent or more of the outstanding bonds, by principal amount, have consented to the petition and all of the following apply:

(A) By reason of determination pursuant to Section 8769, the city is not obligated to advance available funds to cure a deficiency.

(B) No bids equal to or greater than the minimum price have been received at the foreclosure sale.

(C) No funds remain in the special reserve fund, if any.

(D) The city has reasonably determined that a reassessment and refunding proceeding is not practicable, or has in good faith endeavored to accomplish a reassessment and refunding and has not been successful, or has completed reassessment and refunding arrangements which will, to the maximum extent feasible, minimize the ultimate loss to the bondholders.

(E) No other remedy acceptable to owners or holders of 75 percent or more of the outstanding bonds, by principal amount, is reasonably available.

(d) The assessment or reassessment lien upon property sold pursuant to this section at a lesser price than the minimum price shall be reduced by the difference between the minimum price and the sale price.

(e) The court shall permit participation by the bondholders in its consideration of the petition as necessary to its determinations.

(f) Neither the property owner nor the holder of a security interest in the property, nor any other defendant in the foreclosure action, nor any agent thereof, may purchase the property at the foreclosure sale for less than the minimum price determined pursuant to Section 8832. Each purchaser at less than the minimum price shall certify in writing to the levying officer at the sale the purchaser's compliance with the requirements of this subdivision.

(g) The court may make provisions for the payment of attorney fees and costs incurred in proceedings pursuant to this section as the court deems proper, and need not require that the fees and costs be paid out of the proceeds of any sale authorized pursuant to this section.

SEC. 12. Section 22625 of the Streets and Highways Code is amended to read:

22625. The date, hour, and place of the hearing is hereby fixed as the date, hour, and place of a regular meeting before August 10, as specified in any ordinance, resolution, or order of the legislative body fixing the time and place of its regular meetings.

SEC. 13. Section 22629 of the Streets and Highways Code is amended to read:

22629. The legislative body shall hold the hearing at the time and place specified in the resolution and in any order continuing the hearing. All interested persons shall be afforded the opportunity to hear and be heard. The legislative body shall consider all oral statements and all written protests made or filed by any interested person. The legislative body may continue the hearing from time to time, provided, that no continuance shall be made to a date subsequent to August 10 without the prior consent of the county auditor.

CHAPTER 960

An act to amend Section 1373.62 of the Health and Safety Code, and to amend Section 12692 of the Insurance Code, relating to insurance.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 1373.62 of the Health and Safety Code is amended to read:

1373.62. Except in the case of a specialized health care service plan contract, on and after January 1, 1985, every health care service plan that covers hospital, medical, or surgical expenses on a group basis shall offer to group contract holders a continuation benefit, which, if selected, shall have a duration of at least 90 days and which shall be offered consecutively to any federal requirement for continuation benefits. The terms and conditions shall include continuation benefit coverage for widows, widowers, divorced or legally separated spouses, spouses of covered employees becoming entitled to benefits under Title XVIII of the Social Security Act, and their dependents, including dependent children who cease to be dependent children under the plan, who were covered by the group contract on the date of termination of coverage. However, any existing provisions of law regarding termination of a dependent child status shall not be affected by this section.

The continuation of coverage shall be available only under the following conditions:

(a) Those eligible remain within the State of California, although the departure of a dependent child to another state shall not

invalidate the continuation provisions for any other family members.

(b) Those eligible do not marry or remarry, although the marriage of any dependent child shall not invalidate the continuation provisions for other family members.

(c) Those eligible are not eligible for any comparable state, federal, or private group medical plan, although the eligibility of any dependent child shall not invalidate the continuation provisions for other family members.

(d) Those eligible do not find employment with an employer that has a group plan of its own, even if the plan is less substantive, although the entry into such an employee plan by a dependent child shall not invalidate the continuation provisions for other family members.

(e) The group contract is not terminated or the employer's participation in the group contract is not terminated.

(f) Those eligible do not knowingly furnish incorrect information or otherwise improperly obtain the benefits of the plan.

(g) The continuing individual shall pay the premium amount in the manner specified in the group contract for both his or her share of the premium and the group contract holder's share, if any.

(h) Eligible persons under this section shall be notified in the same manner required for conversion notification pursuant to Section 1373.6. Every plan shall communicate the availability of such coverage to all group contract holders and to all prospective group contract holders with whom they are negotiating.

SEC. 2. Section 12692 of the Insurance Code is amended to read:

12692. On and after January 1, 1985, every insurer and nonprofit hospital service plan issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer to group policyholders a continuation benefit which, if selected, shall have a duration of at least 90 days and which shall be offered consecutively to any federal requirement for continuation benefits. The terms and conditions shall include continuation benefit coverage for widows, widowers, divorced or legally separated spouses, spouses of covered employees becoming entitled to benefits under Title XVIII of the Social Security Act, and their dependents, including dependent children who cease to be dependent children under the plan, who were covered by the group contract on the date of termination of coverage. However, any existing provisions of law regarding termination of a dependent child status shall not be affected by this section.

The continuation of coverage shall be available only under the following conditions:

(a) Those eligible remain within the State of California, although the departure of a dependent child to another state shall not invalidate the continuation provisions for any other family members.

(b) Those eligible do not marry or remarry, although the marriage of any dependent child shall not invalidate the continuation provisions for other family members.

(c) Those eligible are not eligible for any comparable state, federal, or private group medical plan, although the eligibility of any dependent child shall not invalidate the continuation provisions for other family members.

(d) Those eligible do not find employment with an employer that has a group plan of its own, even if the plan is less substantive, although the entry into such an employee plan by a dependent child shall not invalidate the continuation provisions for other family members.

(e) The group policy is not terminated or the employer's participation in the group policy is not terminated.

(f) Those eligible do not knowingly furnish incorrect information or otherwise improperly obtain the benefits of the plan.

(g) The continuing individual shall pay the premium amount in the manner specified in the group policy for both his or her share of the premium and the group policyholder's share, if any.

(h) Eligible persons under this section shall be notified in the same manner required for conversion notification pursuant to Section 12689. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

CHAPTER 961

An act to amend Section 25210.4f of the Government Code, relating to county service areas.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 25210.4f of the Government Code is amended to read:

25210.4f. (a) In Orange County, a county service area, in addition to other services which it is empowered to provide, may exercise the powers of a harbor improvement district pursuant to Part 2 (commencing with Section 5800) of Division 8 of the Harbors and Navigation Code and the Orange County Flood Control District pursuant to Chapter 723 of the Statutes of 1927 and as subsequently amended. Notwithstanding Sections 25210.10 and 25210.10a, the county service area may include all of the territory, both incorporated and unincorporated, within the County of Orange without the adoption of resolutions of consent adopted by the legislative bodies of the cities. These services and facilities shall be deemed "miscellaneous extended services."

(b) In the event one or more special districts, one of which is a harbor improvement district or a district formed pursuant to

Chapter 723 of the Statutes of 1927 governed by a county board of supervisors, is dissolved, the county may form a county service area or areas to include both the incorporated and unincorporated territory of the former district or districts. The county may exercise the same powers and continue to provide the facilities and services of the former district or districts under the authority and in the manner provided in either the statutes governing the county or those governing the district which formerly provided those facilities and services, including, but not limited to, the authority to adopt ordinances pursuant to Section 5900 of the Harbors and Navigation Code and Section 3 of the Orange County Flood Control Act (Chapter 723 of the Statutes of 1927), and the authority to adopt flood plain regulations under Section 8414 of the Water Code.

(c) The provisions of Sections 25210.10, 25210.10a, and 25210.90 shall not apply to the county service area or service areas referred to in this section.

CHAPTER 962

An act to amend Section 15975 of, and to add Sections 15975.1 and 15984 to, the Government Code, and to amend Section 180205 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. This act is in response to the following legislative findings:

(a) There is a great need for specialized transportation services (paratransit) throughout the state, in both urban and rural areas. A true and complete extent of the need is presently unknown.

(b) In many cases throughout the state, increased coordination of specialized transportation services can result in more efficient and cost-effective provision of services.

(c) Specialized transportation services were improved and expanded in many areas of the state as a result of the social service transportation inventories and the action plans that were developed by regional transportation planning agencies as a result of Chapter 1120 of the Statutes of 1979. However, that legislation did not require any updates of those two documents or implementation of the action plans.

SEC. 2. Section 15975 of the Government Code is amended to read:

15975. Upon completion of the report required pursuant to Section 15973, the transportation planning agencies and the county transportation commissions shall prepare, adopt, and submit an

action plan to the Director of Transportation, not later than December 31, 1981, that describes in detail the steps required to accomplish the consolidation of social service transportation services. The action plan shall substantiate that one or more of the benefits indicated in Sections 15951 and 15952 are feasible for the services in a given geographic area. The action plan shall include, but not be limited to, the following:

(a) The designation of consolidated transportation service agencies within the geographic area of jurisdiction of the transportation planning agency or county transportation commission. The action plan may designate more than a single agency or multiple agencies as consolidated transportation service agencies, if improved coordination of all services is demonstrated within the geographic area.

The action plan may also specify that the consolidation of some services and the coordination of other services is the most feasible approach, at the time the action plan is submitted, which will provide improved efficiency and effectiveness of those services.

(b) The identification of the social service recipients to be served, of funds available for use by the consolidated or coordinated services, and of an orderly strategy and schedule detailing the steps required to develop the financial program and management structure necessary to implement consolidated or coordinated services.

(c) Measures to coordinate the services provided under subdivision (a) with existing fixed route service provided by public and private transportation providers.

(d) Measures for the effective coordination of specialized transportation service from one provider service area to another.

(e) Measures to insure that the objectives of the action plan are consistent with the legislative intent declared in Section 15951.

SEC. 3. Section 15975.1 is added to the Government Code, to read:

15975.1. Transportation planning agencies and county transportation commissions shall every four years update the social services transportation inventory prepared pursuant to Section 15973 and every two years shall update the action plan prepared pursuant to Section 15975, except that, in the case of an action plan which has been implemented, a report on the progress of the implementation may be substituted for an updated action plan. The update shall include a discussion of the progress by the transportation planning agency and the county transportation commission in implementing its action plan, any obstacles that have been encountered, and proposed actions to be taken to overcome the obstacles, and any other proposed actions needed to further implement the action plan.

SEC. 4. Section 15984 is added to the Government Code, to read:

15984. The Department of Transportation shall provide technical assistance to paratransit providers who may wish to explore coordination strategies but lack the capability to develop and implement those strategies.

SEC. 5. Section 180205 of the Public Utilities Code is amended to read:

180205. The revenues from the taxes imposed pursuant to this chapter may be allocated by the authority for the construction and improvement of state highways, the construction, maintenance, improvement, and operation of local streets, roads, and highways, and the construction, improvement, and operation of public transit systems. For purposes of this section, "public transit systems" includes paratransit services.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 963

An act to amend Sections 20020.8, 21205, 21224.5, 21296.01, and 21340 of the Government Code, relating to public retirement.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 20020.8 of the Government Code is amended to read:

20020.8. "Local policeman" also includes any officer or employee of a school district or a community college district which has established a police department pursuant to Section 39670 or 72330 of the Education Code, whose principal duties consist of active law enforcement service, except persons whose principal duties are clerical or otherwise clearly do not fall within the scope of active law enforcement, even though such a person is subject to occasional call, or is occasionally called upon, to perform duties within the scope of active law enforcement.

This section shall only apply to any school district or any community college district which, prior to the effective date of this section, had amended its contract to provide membership for local policemen.

SEC. 2. Section 21205 of the Government Code is amended to read:

21205. The designation of a beneficiary under optional settlements 2 and 3, or if a benefit involving the life contingency of

the beneficiary is provided, then under optional settlement 4, is irrevocable from the time of the first payment on account of any retirement allowance. Otherwise a designation of beneficiary under this system is revocable at the pleasure of the member who made it. A member's marriage, dissolution of marriage, annulment of his or her marriage, the birth of his or her child, or his or her adoption of a child shall constitute an automatic revocation of his or her previous revocable designation of beneficiary. A member's termination of employment and withdrawal of contributions shall constitute an automatic revocation of the previous revocable designation of beneficiary and subsequent reemployment in employment covered by this retirement system shall not reinstate the previous designation of beneficiary. Any revocable designation of beneficiary in effect on the operative date of this section which was filed prior to the occurrence of any of the conditions specified in this section shall become void and of no effect on that date.

Upon revocation of any beneficiary designation, a member may designate the same or another beneficiary by a writing filed with the board.

SEC. 2.5. Section 21205 of the Government Code is amended to read:

21205. The designation of a beneficiary under optional settlements 2 and 3, or if a benefit involving the life contingency of the beneficiary is provided, then under optional settlement 4, is irrevocable from the time of the first payment on account of any retirement allowance. Otherwise a designation of beneficiary under this system is revocable at the pleasure of the member who made it. A member's marriage, dissolution of marriage, annulment of his or her marriage, the birth of his or her child, or his or her adoption of a child shall constitute an automatic revocation of his or her previous revocable designation of beneficiary. A member's termination of employment and withdrawal of contributions shall constitute an automatic revocation of the previous revocable designation of beneficiary and subsequent reemployment in employment covered by this retirement system shall not reinstate the previous designation of beneficiary. Any revocable designation of beneficiary in effect on the operative date of this section which was filed prior to the occurrence of any of the conditions specified in this section shall become void and of no effect on that date.

Upon revocation of any beneficiary designation, a member may designate the same or another beneficiary by a writing filed with the board, except as otherwise provided in Section 21204.

SEC. 3. Section 21224.5 of the Government Code is amended to read:

21224.5. Notwithstanding anything to the contrary in this article, the monthly allowance for service credited under the Second Tier shall be adjusted annually beginning with the second calendar year following retirement for time commencing on April 1 and payable on the first day of May. The adjusted monthly allowance shall be

equal to the base allowance increased by 3 percent per year compounded for the number of years intervening between the end of the base year and the beginning of the calendar year in which the adjustment is made.

SEC. 4. Section 21296.01 of the Government Code is amended to read:

21296.01. The disability retirement pension for state miscellaneous or state industrial service subject to Section 21251.146 shall be one of the following:

(a) Ninety percent of the factor applicable at age 65 as set forth in Section 21251.146 times final compensation multiplied by the number of years of service credited to him or her.

(b) If the disability retirement allowance computed under subdivision (a) does not exceed one-third of his or her final compensation, 90 percent of the benefit which would be payable to the member had the member continued in employment until age 65, but in such case the retirement allowance shall not exceed one-third of the final compensation. This subdivision is not applicable to members who are not entitled, at the time of retirement, to be credited with at least 10 years of state service.

(c) If the disability retirement allowance is derived from this section and Section 21296, and would otherwise exceed the maximums provided by these sections, the pension payable with respect to each section shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there was no limit, so that the total of such pensions shall equal the maximum allowed.

SEC. 5. Section 21340 of the Government Code is amended to read:

21340. Notwithstanding any provision of this part, a retired member who chose no optional settlement or optional settlement 1 at retirement may elect to have the actuarial equivalent, as of the date of the election, of the allowance payable for the remainder of his or her lifetime applied to a lesser allowance during his or her remaining lifetime under one of the optional settlements specified in this article and name his or her spouse as beneficiary.

The election provided by this section is irrevocable and shall be made within 12 months following a member's marriage if the spouse is named as beneficiary, or, in the case of a member who married prior to January 1, 1988, the election shall be made by January 1, 1989. The election shall become effective on the date specified on the election, provided that this date is not earlier than the day following receipt of the election in the system pursuant to this section.

A member who married prior to or after January 1, 1988, who fails to elect within 12 months, shall retain the right to make an election under this section; however, the election shall become effective no earlier than 12 months after the date it is filed with the board, provided that neither the member nor the designated beneficiary die prior to the effective date of the election.

This section shall not be construed to mean that designation of a new beneficiary causes the selection of an optional settlement. An optional settlement shall be selected by a member in a writing filed by the member with the board.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 21205 of the Government Code proposed by both this bill and SB 1190. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 21205 of the Government Code, and (3) this bill is enacted after SB 1190, in which case Section 21205 of the Government Code, as amended by SB 1190, shall remain operative only until the operative date of this bill, at which time Section 2.5 of this bill shall become operative, and Section 2 of this bill shall not become operative.

CHAPTER 964

An act to amend Section 54221 of, and to add Section 54222.3 to, the Government Code, relating to local government.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 54221 of the Government Code is amended to read:

54221. (a) As used in this article, the term "local agency" means every city, whether organized under general law or by charter, county, city and county, and district, including school districts of any kind or class, empowered to acquire and hold real property.

(b) As used in this article, the term "surplus land" means land owned by any agency of the state, or any local agency, that is determined to be no longer necessary for the agency's use, except property being held by the agency for the purpose of exchange.

(c) As used in this article, the term "open-space purposes" means the use of land for public recreation, enjoyment of scenic beauty, or conservation or use of natural resources.

(d) As used in this article, the term "persons and families of low or moderate income" means the same as provided under Section 50093 of the Health and Safety Code.

(e) As used in this article, the term "exempt surplus land" means surplus land which is (1) less than 5,000 square feet in area, (2) less than the minimum legal residential building lot size for the jurisdiction in which the parcel is located, or 5,000 square feet in area, whichever is less, or (3) has no record access and is less than 10,000 square feet in area; and is not contiguous to land owned by a state or local agency which is used for park, recreational, open-space, or

low- and moderate-income housing purposes and is not located within an enterprise zone pursuant to Section 7073 nor a designated program area as defined in Section 7082. If the surplus land is not sold to an owner of contiguous land, it is not considered exempt surplus land and is subject to the provisions of this article.

(f) Notwithstanding subdivision (e), the following properties are not considered exempt surplus land and are subject to the provisions of this article:

(1) Lands within the coastal zone.

(2) Lands within 1,000 yards of a historical unit of the State Parks System.

(3) Lands within 1,000 yards of any property that has been listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places.

(4) Lands within the Lake Tahoe region as defined in Section 66905.5.

SEC. 2. Section 54222.3 is added to the Government Code, to read:

54222.3. Section 54222 shall not apply to the disposal of exempt surplus land as defined in Section 54221 by an agency of the state or any local agency.

CHAPTER 965

An act to amend Sections 25120 and 25540.6 of, and to add Section 25140 to, the Public Resources Code, relating to energy resources, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 25120 of the Public Resources Code is amended to read:

25120. "Thermal powerplant" means any stationary or floating electrical generating facility using any source of thermal energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant thereto. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

"Thermal powerplant" does not include any wind, hydroelectric, or solar photovoltaic electrical generating facility.

SEC. 2. Section 25140 is added to the Public Resources Code, to read:

25140. "Solar thermal powerplant" means a thermal powerplant

in which 75 percent or more of the total energy output is from solar energy and the use of backup fuels, such as oil, natural gas, and coal, does not, in the aggregate, exceed 25 percent of the total energy input of the facility during any calendar year period.

SEC. 3. Section 25540.6 of the Public Resources Code is amended to read:

25540.6. Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:

(a) A thermal powerplant which will employ cogeneration technology, or a solar thermal powerplant. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity.

(b) A modification of an existing facility.

(c) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.

(d) A thermal powerplant with a generating capacity of up to 100 megawatts.

(e) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.

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

In order to ensure and expedite the development of solar energy facilities, which are nonpolluting, environmentally safe forms of renewable energy resources, to reduce the state's dependence on depletable fuel supplies, and to reduce the economic impact of future oil shortages and price increases, it is necessary that his act take effect immediately.

CHAPTER 966

An act to amend Section 2943 of the Civil Code, relating to mortgages.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 2943 of the Civil Code is amended to read:

2943. (a) As used in this section:

(1) "Beneficiary" means a mortgagee or beneficiary of a mortgage or deed of trust, or his or her assignees.

(2) "Beneficiary statement" means a written statement showing:

(A) The amount of the unpaid balance of the obligation secured by the mortgage or deed of trust and the interest rate, together with the total amounts, if any, of all overdue installments of either principal or interest, or both.

(B) The amounts of periodic payments, if any.

(C) The date on which the obligation is due in whole or in part.

(D) The date to which real estate taxes and special assessments have been paid to the extent the information is known to the beneficiary.

(E) The amount of hazard insurance in effect and the term and premium of that insurance to the extent the information is known to the beneficiary.

(F) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(G) The nature and, if known, the amount of any additional charges, costs, or expenses paid or incurred by the beneficiary which have become a lien on the real property involved.

(H) Whether the obligation secured by the mortgage or deed of trust can or may be transferred to a new borrower.

(3) "Delivery" means depositing or causing to be deposited in the United States mail an envelope with postage prepaid, containing a copy of the document to be delivered, addressed to the person whose name and address is set forth in the demand therefor.

(4) "Entitled person" means the trustor or mortgagor of, or his or her successor in interest in, the mortgaged or trust property or any part thereof, any beneficiary under a deed of trust, any person having a subordinate lien or encumbrance of record thereon, the escrow holder licensed as an agent pursuant to Division 6 (commencing with Section 17000) of the Financial Code, or the party exempt by virtue of Section 17006 of the Financial Code who is acting as the escrow holder.

(5) "Payoff demand statement" means a written statement, prepared in response to a written demand made by an entitled

person or authorized agent, setting forth the amounts required as of the date of preparation by the beneficiary, to fully satisfy all obligations secured by the loan that is the subject of the payoff demand statement. The written statement shall include information reasonably necessary to calculate the payoff amount on a per diem basis for the period of time, not to exceed 30 days, during which the per diem amount is not changed by the terms of the note.

(b) (1) A beneficiary, or his or her authorized agent, shall, within 21 days of the receipt of a written demand by an entitled person or his or her authorized agent, prepare and deliver to the person demanding it a true, correct, and complete copy of the note or other evidence of indebtedness with any modification thereto, and a beneficiary statement.

(2) A request pursuant to this subdivision may be made by an entitled person or his or her authorized agent at any time before, or within two months after, the recording of a notice of default under a mortgage or deed of trust, or may otherwise be made more than 30 days prior to the entry of the decree of foreclosure.

(c) A beneficiary, or his or her authorized agent, shall, on the written demand of an entitled person, or his or her authorized agent, prepare and deliver a payoff demand statement to the person demanding it within 21 days of the receipt of the demand. However, if the loan is subject to a recorded notice of default or a filed complaint commencing a judicial foreclosure, the beneficiary shall have no obligation to prepare and deliver this statement as prescribed unless the written demand is received prior to the first publication of a notice of sale or the notice of the first date of sale established by a court.

(d) (1) A beneficiary statement or payoff demand statement may be relied upon by the entitled person or his or her authorized agent in accordance with its terms, including with respect to the payoff demand statement reliance for the purpose of establishing the amount necessary to pay the obligation in full. If the beneficiary notifies the entitled person or his or her authorized agent of any amendment to the statement, then the amended statement may be relied upon by the entitled person or his or her authorized agent as provided in this subdivision.

(2) If notification of any amendment to the statement is not given in writing, then a written amendment to the statement shall be delivered to the entitled person or his or her authorized agent no later than the next business day after notification.

(3) Upon the dates specified in subparagraphs (A) and (B) any sums that were due and for any reason not included in the statement or amended statement shall continue to be recoverable by the beneficiary as an unsecured obligation of the obligor pursuant to the terms of the note and existing provisions of law.

(A) If the transaction is voluntary, the entitled party or his or her authorized agent may rely upon the statement or amended statement upon the earlier of (i) the close of escrow, (ii) transfer of

title, or (iii) recordation of a lien.

(B) If the loan is subject to a recorded notice of default or a filed complaint commencing a judicial foreclosure, the entitled party or his or her authorized agent may rely upon the statement or amended statement upon the acceptance of the last and highest bid at a trustee's sale or a court supervised sale.

(e) The following provisions apply to a demand for either a beneficiary statement or a payoff demand statement:

(1) Where an entitled person or his or her authorized agent requests a statement pursuant to this section and does not specify a beneficiary statement or a payoff demand statement the beneficiary shall treat the request as a request for a payoff demand statement.

(2) Where the entitled person or the entitled person's authorized agent includes in the written demand a specific request for a copy of the deed of trust or mortgage, it shall be furnished with the written statement at no additional charge.

(3) The beneficiary may, before delivering a statement, require reasonable proof that the person making the demand is, in fact, an entitled person or an authorized agent of an entitled person, in which event the beneficiary shall not be subject to the penalties of this section until 21 days after receipt of the proof herein provided for. A statement in writing signed by the entitled person appointing an authorized agent when delivered personally to the beneficiary or delivered by registered return receipt mail shall constitute reasonable proof as to the identity of an agent. Similar delivery of a policy of title insurance, preliminary report issued by a title company, original or photographic copy of a grant deed or certified copy of letters testamentary, guardianship, or conservatorship shall constitute reasonable proof as to the identity of a successor in interest, provided the person demanding a statement is named as successor in interest in the document.

(4) If a beneficiary for a period of 21 days after receipt of the written demand willfully fails to prepare and deliver the statement, he or she is liable to the entitled person for all damages which he or she may sustain by reason of the refusal and, whether or not actual damages are sustained, he or she shall forfeit to the entitled person the sum of three hundred dollars ($300). Each failure to prepare and deliver the statement, occurring at a time when, pursuant to this section, the beneficiary is required to prepare and deliver the statement, creates a separate cause of action, but a judgment awarding an entitled person a forfeiture, or damages and forfeiture, for any failure to prepare and deliver a statement bars recovery of damages and forfeiture for any other failure to prepare and deliver a statement, with respect to the same obligation, in compliance with a demand therefor made within six months before or after the demand as to which the award was made. For the purposes of this subdivision, "willfully" means an intentional failure to comply with the requirements of this section without just cause or excuse.

(5) If the beneficiary has more than one branch, office, or other

place of business, then the demand shall be made to the branch or office address set forth in the payment billing notice or payment book, and the statement, unless it specifies otherwise, shall be deemed to apply only to the unpaid balance of the single obligation named in the request and secured by the mortgage or deed of trust which is payable at the branch or office whose address appears on the aforesaid billing notice or payment book.

(6) The beneficiary may make a charge not to exceed sixty dollars ($60) for furnishing each required statement. The provisions of this paragraph shall not apply to mortgages or deeds of trust insured by the Federal Housing Administrator or guaranteed by the Administrator of Veterans Affairs.

CHAPTER 967

An act to amend Section 511.5 of the Elections Code, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 511.5 of the Elections Code is amended to read:

511.5. (a) Affidavits of registration in possession of an elections official for purposes of filing pursuant to Section 511 shall be maintained on file as a public record.

(b) Any person filing with the county clerk or registrar of voters a new affidavit of registration or reregistration may have the information relating to his or her residence address and telephone number appearing on the affidavit, or any list or roster or index prepared therefrom, declared confidential upon order of a superior court issued upon a showing of good cause that a life threatening circumstance exists to the voter or a member of the voter's household, and naming the county clerk or registrar of voters as a party.

(c) Any person granted confidentiality under subdivision (b) shall:

(1) Be considered an absent voter for all subsequent elections or until the county clerk or registrar of voters is notified otherwise by the court or in writing by the voter. A voter requesting termination of absent voter status thereby consents to placement of his or her residence address and telephone number in the roster of voters.

(2) In addition to the required residence address, provide a valid mailing address to be used in place of the residence address for election, scholarly or political research, and government purposes.

The elections official, in producing any list, roster, or index may, at his or her choice, use the valid mailing address or the word "confidential" or some similar designation in place of the residence address.

(d) No action in negligence may be maintained against any government entity or officer or employee thereof as a result of disclosure of the information which is the subject of this section unless by a showing of gross negligence or willfulness.

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

In order to clarify ambiguities in the law, and to preserve the confidentiality of certain affidavits of registration and reregistration, it is necessary that this act go into effect immediately.

CHAPTER 968

An act to amend, and to amend and renumber, Section 65958 of the Government Code, relating to fees.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 65958 of the Government Code is amended to read:

65958. (a) Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been imposed, the payment or performance of which is required to obtain governmental approval of a development, as defined by Section 65927, or development project, as defined by Section 65928, may protest, as provided in Sections 65913.5 and 66475.4, the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction. If a party files a protest under both Sections 65913.5 and 66475.4, Section 66475.4 shall prevail over Section 65913.5 to the extent of any conflict between those two sections.

(b) The protest procedures of subdivision (a) do not apply to the protest of any tax or assessment (1) levied pursuant to a principal act which contains protest procedures or (2) that is pledged to secure payment of the principal of, or interest on, bonds or other public indebtedness.

SEC. 2. Section 65958 of the Government Code is amended and renumbered to read:

66009. (a) Any party on whom a fee, tax, assessment, dedication, reservation, or other exaction has been imposed, the payment or performance of which is required to obtain governmental approval

of a development, as defined by Section 65927, or development project may protest, as provided in Sections 66008 and 66475.4, the establishment or imposition of the fee, tax, assessment, dedication, reservation, or other exaction. If a party files a protest under both Sections 66008 and 66475.4, Section 66475.4 shall prevail over Section 66008 to the extent of any conflict between those two sections.

(b) The protest procedures of subdivision (a) do not apply to the protest of any tax or assessment (1) levied pursuant to a principal act which contains protest procedures or (2) that is pledged to secure payment of the principal of, or interest on, bonds or other public indebtedness.

SEC. 3. Section 2 of this bill incorporates amendments to Section 65958 of the Government Code proposed by both this bill and AB 3980. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends, or amends and renumbers, Section 65958 of the Government Code, and (3) this bill is enacted after AB 3980, in which case Section 1 of this bill shall not become operative.

CHAPTER 969

An act to amend Section 4801.6 of the Civil Code, and to amend Section 1218 of the Code of Civil Procedure, relating to civil law.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 4801.6 of the Civil Code is amended to read:

4801.6. (a) In any proceeding where the court has ordered a party to pay any amount of spousal support to the other party, the court, may order the party required to make a payment of spousal support to assign to an assigned payee that portion of his or her salary or wages due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the party required to make the payment of spousal support upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding subdivision (a), in any proceeding after January 1, 1989, where the court has ordered a party to pay any amount of spousal support to the other party, that order shall contain a provision assigning the wages of the obligor to the assigned payee. Any order for the modification of support entered after January 1, 1989, which does not otherwise contain a provision for wage assignment, shall also contain a provision assigning the wages of an obligor to the assigned payee. All provisions for wage assignment

required pursuant to this subdivision shall be effective only upon an application signed under penalty of perjury by the assigned payee that the obligor is in arrears in payment in a sum equal to the amount of support payable for one month. Upon receipt of the application, the court shall issue, without notice to the obligor, an order requiring the obligor to assign to the payee that portion of the salary or wages of the obligor due or to be due in the future as will be sufficient to pay the amount ordered by the court for spousal support. The order shall operate as an assignment and shall be binding upon any existing or future employer of the obligor ordered to pay support upon whom a copy of the order is served.

(2) In cases in which the order for support does not contain a provision for wage assignment, the application shall state that the assigned payee has given the obligor a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the application. The written notice of intent to seek a wage assignment required by this paragraph may be given at the time of filing a petition or complaint for support or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of the application with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The obligor may at any time waive the written notice required by this subdivision.

(3) The assigned payee shall notify the employer of the obligor, by any form of mailing requiring a return receipt, of any change of address within a reasonable period of time after the change. In instances in which payments have been ordered to be made to the district attorney, the party to whom support has been ordered to be paid shall notify the court and the district attorney, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. If the employer or district attorney is unable to deliver payments under the assignment for a period of six months due to the failure of the individual to whom support has been ordered to be paid to notify the employer or district attorney of a change of address, the employer or district attorney shall not make any further payments under the assignment and shall return all undeliverable payments to the employee.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the obligor, together with a written statement of the obligor's rights under the law to move to quash the assignment. The Judicial Council shall adopt a form for the statement.

(6) An obligor alleged to be in default may move to quash an

assignment order issued under this subdivision within 10 days after service on the obligor of notice of the assignment order by his or her employer if the obligor states under oath that there is an error in the amount of current or overdue support, that the alleged obligor is not the obligor from whom support is due, or that the amount to be withheld exceeds that allowable under federal law in subdivision (b) of Section 1673 of Title 15 of the United States Code, to the extent that the amount required to be withheld exceeds the limits specified in federal law. The obligor may also move to quash the assignment if he or she states under oath that a default in payment in a sum equal to the amount of support payable for one month has not occurred. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the obligor of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion. If a finding of an error in the amount of overdue support results in an amount due which is less than one month's support, the assignment of wages shall be quashed accordingly. However, if a finding of an error in the amount of overdue support results in an amount in excess of one month's support, such a finding in the amount of overdue support shall not affect the assignment of that portion of the obligor's wages withheld to pay for current support. A finding of an error in the amount of current support subject to withholding does not affect the assignment of that portion of the obligor's wages withheld to pay overdue support.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted. The employer shall send the amounts withheld to the assigned payee within 10 days of the date the obligor is paid. An employer who willfully fails to withhold and forward support pursuant to a currently valid order entered and served upon the employer pursuant to this section is liable to the assigned payee for the amount of support not withheld, forwarded, or otherwise paid to the assigned payee. Willful failure by an employer to comply with such an order is punishable as a contempt pursuant to Section 1218 of the Code of Civil Procedure.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the obligor has been given notice of the order of assignment and the fact that the obligor may have subsequently paid the arrearages shall not relieve the court of its duty under this

subdivision to enter the order for the assignment.

(10) Upon a notice of motion by the obligor, the court shall terminate an order of assignment entered pursuant to this subdivision if past due support has been paid in full and if one of the following conditions exists: (A) The employer or district attorney has been unable to deliver payments under the assignment for a period of six months due to the failure of the person to whom spousal support has been ordered to be paid to notify the employer or district attorney of a change of address; or (B) the death or remarriage of the spouse to whom support is owed; or (C) the assignment has continued for 24 months after payment in full of any past due support. However, if the assignment was pursuant to a second or subsequent application, it shall not be terminated unless, upon a petition by the party ordered to pay support, the court determines that there is good cause to terminate the assignment.

(11) The amounts withheld under this subdivision shall include both current support and payments towards the liquidation of arrearages. However, priority shall be given to the current support obligation.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee the sum of one dollar ($1) for each payment made pursuant to the order. Any such assignment made pursuant to court order shall have priority as against any attachment, execution, or other assignment, unless otherwise ordered by the court.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the support obligation. The state agency or the local agency designated to enforce child and spousal support obligations, as required by federal law shall allow employers to simplify the process of wage withholding by forwarding, as ordered by the court, the amounts of support withheld under more than one court order in a consolidated check.

(e) Orders for wage assignment required or authorized by this section shall include a requirement that the obligor notify the assigned payee of any change of employment and of the name and address of his or her new employer.

(f) No employer shall use any assignment authorized by this section as grounds refusing to hire a person or for discharging or taking disciplinary action against an employee. An employer who engages in the conduct prohibited by this subdivision may be assessed a civil penalty of a maximum of five hundred dollars ($500).

(g) As used in this section "employer" includes the United States government and any public entity as defined in Section 811.2 of the Government Code.

(h) On declaration or affidavit of the party to whom spousal support has been ordered to be paid to the court that: (1) the party ordered to make support payments is in default in the payment in

the amount specified in subdivision (b), and (2) the whereabouts of the defaulting party or the identity of his or her employer are unknown to the party to whom support has been ordered to be paid, the district attorney shall contact the central registry maintained by the Department of Justice in the manner prescribed in Section 11478.5 of the Welfare and Institutions Code, and upon receiving the requested information, notify the court of the last known address of the absent party and the name and address of the absent party's last known employer. The court shall then order the defaulting party to make support payments pursuant to subdivision (b).

(i) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce spousal support obligations.

(j) This section applies to the money and benefits described in Sections 704.110 and 704.113 of the Code of Civil Procedure to the extent that the money and benefits are subject to a wage assignment for support under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure.

(k) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in Section 704.110 of the Code of Civil Procedure other than the United States government, that entity shall comply with any request for a return of employee contributions by an employee named in order by delivering the contributions to the clerk of the court from which the order issued, unless the entity has received a certified copy of an order terminating the order of assignment. Upon receipt of moneys pursuant to this section, the clerk of the court, within 10 days, shall send written notice of the fact to the parties, and any agency through whom payments have been ordered under Section 4801.7. These moneys shall be subject to any procedure available to enforce an order for spousal support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, return the moneys to the public entity that delivered the moneys to the court unless the public entity has informed the court in writing that the moneys shall be released to the defaulting obligor. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for spousal support upon the issuance of such a request by such an employee.

(*l*) Notwithstanding subdivisions (a) and (b), in any case where support is ordered to be paid through the district attorney for those purposes, or upon the district attorney's or obligor's request, the court shall issue an order for a wage assignment pursuant to this section.

In any such case in which an arrearage is alleged, the party ordered to pay support may move to quash the order for wage assignment in the manner specified in subdivision (b), but a finding of error in the amount of the arrearage is not sufficient in and of itself to quash the

wage assignment for that portion of the obligor's wages withheld to pay current support.

As used in this subdivision, "wage assignment" has the same meaning as "assignment" and "wage assignment" in subdivisions (a) and (b).

(m) As used in this section, "assigned payee" means either the person to whom support has been ordered to have been paid or the district attorney so long as the district attorney is otherwise required under existing law to enforce that support and is designated by the court to receive the payment. For the purposes of this section, the district attorney shall be the assigned payee for all cases in which an application for services has been filed under Title IV-D of the Social Security Act, so long as otherwise authorized by law.

(n) The procedures specified in this section are applicable to any proceeding where the court has ordered a party to pay any amount for family support.

(o) Any reference to the district attorney in this section shall apply only when the district attorney is otherwise ordered or required to act pursuant to existing law. Nothing in this section shall be deemed to mandate additional enforcement or collection duties upon the district attorney beyond those imposed under existing law.

SEC. 2. Section 1218 of the Code of Civil Procedure is amended to read:

1218. Upon the answer and evidence taken, the court or judge must determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he or she is guilty of the contempt, a fine may be imposed on him or her not exceeding one thousand dollars ($1,000), or he or she may be imprisoned not exceeding five days, or both.

No party, who is in contempt of a court order or judgment in a dissolution of marriage or legal separation action, shall be permitted to enforce such an order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child or spousal support orders.

CHAPTER 970

An act to amend Sections 17280, 18688, 19053.1, 23301, and 26221 of, and to add Section 18681.7 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 16, 1988 Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 17280 of the Revenue and Taxation Code is amended to read:

17280. (a) No deduction shall be denied as provided by Section 265 of the Internal Revenue Code, relating to expenses and interest relating to tax-exempt income.

(b) No deduction shall be allowed for any of the following:

(1) Any amount otherwise allowable as a deduction which is allocable to one or more classes of income other than interest (whether or not any amount of income of that class or classes is received or accrued) wholly exempt from the taxes imposed by this part, or any amount otherwise allowable under Section 212 of the Internal Revenue Code (relating to expenses for production of income) which is allocable to interest (whether or not any amount of such interest is received or accrued) wholly exempt from the taxes imposed by this part.

(2) Interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this part. The proper apportionment and allocation of the deduction with respect to taxable and nontaxable income shall be determined under rules and regulations prescribed by the Franchise Tax Board.

(3) Interest on indebtedness incurred or continued to purchase or carry shares of stock of a management company or series thereof which during the taxable year of the holder thereof distributes exempt-interest dividends.

(c) For purposes of paragraph (2) of subdivision (b):

(1) "Interest" includes any amount paid or incurred—

(A) By any person making a short sale in connection with personal property used in that short sale, or

(B) By any other person for the use of any collateral with respect to that short sale.

(2) If—

(A) The taxpayer provides cash as collateral for any short sale, and

(B) The taxpayer receives no material earnings on that cash during the period of the sale, subparagraph (A) of paragraph (1) shall not apply to that short sale.

(d) No deduction shall be denied under this section for interest on a mortgage on, or real property taxes on, the home of the taxpayer by reason of the receipt of an amount as either of the following:

(1) A military housing allowance.

(2) A parsonage allowance excludable from gross income under Section 107 of the Internal Revenue Code.

SEC. 2. Section 18681.7 is added to the Revenue and Taxation Code, to read:

18681.7. For purposes of collecting any penalty, and any interest thereon, imposed under this part against any bank or corporation, as defined under Part 11 (commencing with Section 23001), the

penalty, and the interest thereon, shall constitute a liability imposed under Part 11, and shall be collected in accordance with and in the manner provided in Part 11.

SEC. 3. Section 18688 of the Revenue and Taxation Code is amended to read.

18688. (a) Interest upon the amount assessed as a deficiency shall be assessed, collected and paid in the same manner as the tax at the adjusted annual rate established pursuant to Section 19269 from the date prescribed for the payment of the tax until the date the tax is paid. If any portion of the deficiency is paid prior to the date it is assessed, interest shall accrue on such portion only to the date paid.

(b) If the Franchise Tax Board makes or allows a refund or credit which it determines to be erroneous, in whole or in part, the amount erroneously made or allowed may be assessed and collected after notice and demand pursuant to Section 18601 (pertaining to mathematical errors), except that the rights of protest and appeal shall apply with respect to amounts assessable as deficiencies without regard to the running of any period of limitations provided elsewhere in this article. Notice and demand for repayment must be made within two years after the refund or credit was made or allowed, or during the period within which the Franchise Tax Board may mail a notice of proposed additional assessment, whichever period expires the later. Interest on amounts erroneously made or allowed shall not accrue until 30 days from the date the Franchise Tax Board mails a notice and demand for repayment as provided by this subdivision.

(c) (1) In the case of any assessment of interest, the Franchise Tax Board may abate the assessment of all or any part of that interest for any period in either of the following circumstances:

(A) Any deficiency attributable in whole or in part to any error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial act.

(B) Any payment of any tax described in Section 18583 to the extent that any delay in that payment is attributable to that officer or employee being dilatory in performing a ministerial act.

For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of that error or delay can be attributed to the taxpayer involved, and after the Franchise Tax Board has contacted the taxpayer in writing with respect to that deficiency or payment.

(2) The Franchise Tax Board shall abate the assessment of all interest on any erroneous refund for which an action for recovery is provided under Section 19111 until the date demand for repayment is made, unless either of the following has occurred:

(A) The taxpayer (or a related party) has in any way caused that erroneous refund.

(B) That erroneous refund exceeds fifty thousand dollars ($50,000).

SEC. 4. Section 19053.1 of the Revenue and Taxation Code is amended to read:

19053.1. For purposes of Section 19053, a return filed within four years from the last day prescribed for filing the return showing a credit for (a) tax withheld under Section 18805 of this code or Section 13020 of the Unemployment Insurance Code or (b) estimated tax paid pursuant to Section 18682 in excess of the tax due, shall be considered a claim for refund of such excess if the amount thereof is more than one dollar ($1). No refund of tax withheld or estimated tax paid shall be allowed to an employee or taxpayer who fails to file a return for the taxable year in respect of which the tax withheld or estimated tax was allowable as a credit.

SEC. 5. Section 23301 of the Revenue and Taxation Code is amended to read:

23301. Except for the purposes of filing an application for exempt status or amending the articles of incorporation as necessary either to perfect that application or to set forth a new name, the corporate powers, rights and privileges of a domestic taxpayer, may be suspended, and the exercise of the corporate powers, rights and privileges of a foreign taxpayer in this state may be forfeited if any of the following conditions occur:

(a) If any tax, penalty, or interest, or any portion thereof, which is due and payable either at the time the return is required to be filed, or on or before the 15th day of the ninth month following the close of the income year, is not paid on or before 6 p.m. on the last day of the 12th month after the close of the income year.

(b) If any tax, penalty, or interest, or any portion thereof, due and payable upon notice and demand from the Franchise Tax Board, or due and payable under Section 25936, is not paid on or before 6 p.m. on the last day of the 11th month following the due date of the tax.

(c) If any liability, or any portion thereof, which is due and payable under Article 5 (commencing with Section 18681) of Chapter 18 of Part 10, is not paid on or before 6 p.m. on the last day of the 11th month following the date that the tax liability is due and payable.

SEC. 6. Section 26221 of the Revenue and Taxation Code is amended to read:

26221. (a) At any time within which an action can be brought to collect any delinquent amounts as provided in Article 5 (commencing with Section 26251) of Chapter 23 of this part or Article 2 (commencing with Section 18831) of Chapter 19 of Part 10, the Franchise Tax Board may collect the tax, together with penalties and interest, in the following manner: The Franchise Tax Board shall seize any personal property owned by the taxpayer against whom the tax is assessed, and thereafter sell at public auction the property so seized, or a sufficient portion thereof, to pay the tax due hereunder, together with any interest, and any penalty or penalties imposed hereby for that delinquency, and any and all costs that may have been incurred on account of the seizure and sale. Notice of the

intended sale and the time and place thereof, shall be given to the delinquent taxpayer and to all persons appearing of record to have an interest in the property, in writing, at least 10 days before the date set for the sale by enclosing the notice in an envelope addressed to the taxpayer at its last known place of business in this state if any, and, in the case of any person appearing of record to have an interest in the property, addressed to that person at the last known place of residence, if any, and depositing the same in the United States mail, postage prepaid, and by publication for at least 10 days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold; provided, however, that if there be no newspaper of general circulation in that county then by the posting of the notice in three public places in the county for the 10-day period. The notice shall contain a description of the property to be sold, together with a statement of the amount of the taxes, interest, penalties, and costs, the name of the taxpayer, and the further statement that, unless the taxes, interest, penalties, and costs are paid on or before the time fixed in the notice for the sale, the property, or so much thereof as may be necessary, will be sold in accordance with law and the notice.

(b) For purposes of this section, the term tax shall include any liability imposed against a bank or corporation pursuant to Article 5 (commencing with Section 18681) of Chapter 18 of Part 10, and any interest imposed thereon.

CHAPTER 971

An act to add Section 1062 to the Water Code, relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 1988. Filed with Secretary of State September 19, 1988.]

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

SECTION 1. Section 1062 is added to the Water Code, to read:

1062. (a) The Legislature hereby finds and declares as follows:

(1) The watershed of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary supplies a large percentage of water used in California.

(2) The State Water Resources Control Board and the California regional water quality control boards are responsible for protecting all beneficial uses of those waters. Beneficial uses include those defined in subdivision (f) of Section 13050.

(3) The board is engaged in a hearing process to consider revisions to the water quality standards contained in the existing water quality control plan for the Sacramento-San Joaquin Delta and Suisun Marsh and to consider new standards for San Francisco Bay.

(4) There is a broad diversity of viewpoints regarding appropriate water quality standards and priorities with respect to the various beneficial uses.

(5) Any new or revised standards and plans that derive from the hearing process will have a substantial impact on the people of California, and there is significant public interest in these deliberations.

(b) It is the intent of the Legislature that the hearing process shall provide for the involvement of all those who wish to participate in these deliberations. It is further the intent of the Legislature that members of the general public shall have full access to the proceedings and to all official records of the hearings.

(c) The board shall lodge one copy of the transcripts of the hearings referred to in subdivision (a) for inspection and use by the general public at the following locations: the headquarters of the State Water Resources Control Board in Sacramento; the headquarters of the regional water quality control boards in Los Angeles, Fresno, and San Diego; and the headquarters of the Environmental Protection Agency in San Francisco. The transcripts shall be updated on a timely basis throughout the course of the board's bay-delta hearing process. At the conclusion of the hearing process, one transcript shall be maintained at the headquarters of the board in Sacramento.

(d) The board shall provide for staff services at the headquarters of the board in Sacramento and at the headquarters at each of the regional water quality control boards listed in subdivision (c) to assist the public in utilizing the transcripts and other documents and to facilitate participation by interested parties in the hearing process.

(e) During the course of the board's bay-delta hearing process, the board shall provide for public access to an electronic data retrieval system capable of displaying the text of the hearing transcript at the following locations: The headquarters of the board in Sacramento; the headquarters of the regional water quality control boards in Oakland, Los Angeles, Fresno, Redding, Riverside, and San Diego; and the headquarters of the Environmental Protection Agency in San Francisco.

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

In order to ensure effective public participation in the hearing process established by the State Water Resources Control Board for the adoption of water quality standards for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary at the earliest possible time and to thereby protect the public interest in those waters, it is necessary that this act take effect immediately.

CHAPTER 972

An act to add and repeal Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code, relating to child care, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

I am deleting the $37,500 appropriation contained in Section 2 of Assembly Bill No 4336.

This bill would establish a three-year, Parent-Child Information Pilot Program. Under this program, the State Department of Education would award grants to Resource and Referral agencies to hire extra counselors and volunteers to respond to parental inquiries on a variety of issues relating to normal child behavior and development and reinforcement of realistic adult expectations The bill appropriates $37,500 to begin implementation during the 1988–89 fiscal year.

The demands placed on budget resources require all of us to set priorities The budget enacted in July 1988 appropriated nearly $44 billion in state funds. This amount is more than adequate to provide the necessary essential services provided for by State Government. It is not necessary to put additional pressure on taxpayer funds for programs that fall beyond the priorities currently provided

Thus, after reviewing this legislation, I have concluded that its merits do not sufficiently outweigh the need this year for funding top priority programs and continuing a prudent reserve for economic uncertainties

It is more appropriate to consider funding the provisions of this bill during the budget process for Fiscal Year 1989–90. Only at that time can we review the relative merits of this program in comparison to all other funding projects The budget process enables us to weigh all demands on the state's revenues and direct our resources to programs, either new or existing, that have the most merit.

With this deletion, I approve Assembly Bill No 4336

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. Article 2.5 (commencing with Section 8216) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 2.5. Parent-Child Information Pilot Program

8216. The purposes of this article are as follows:

(a) To provide a consistent and reliable source of information, principally through telephone contact, to parents of young children and child care providers on normal development and behavior, and reinforcement of realistic adult expectations.

(b) To provide support to parents and providers under stress, thus minimizing the risk of child abuse.

(c) To provide guidance to parents toward their own solutions in child rearing matters, thus strengthening parental self-esteem and validating their best instincts and judgment.

(d) To facilitate networking among parents with similar concerns.

(e) To identify and involve parents who could benefit from parenting classes, and to offer those classes in locations throughout the community.

(f) To provide ongoing assessment of community service needs

related to child care providers and parents of young children.

(g) To build community support for broad-based parent education and quality, affordable child care.

(h) To build a public and private partnership that supports parent education efforts, both financially and as a public policy priority.

8217. (a) The State Department of Education, through its child development division, shall administer the program established under this article.

(b) Child care resource and referral programs established to serve a defined geographic area may apply to the State Department of Education, through its child development division, for a grant for the purposes of developing, implementing, and maintaining a parent-child information pilot project pursuant to this article. Three three-year pilot projects shall be assigned and funded under this article, beginning on January 1, 1989, with one each to be located in the northern, central, and southern areas of the state. Any state funding granted under this article shall be applied to the grant recipient to the support of paid staff who are assigned to provide continuity and stability of programs, maximum flexibility in delivering services and building community support, and maximum latitude in developing and maintaining an adequate local match.

(c) In order to qualify for a grant under this article, a program applicant shall do all of the following:

(1) Provide a matching contribution in funds or in-kind contributions from local resources, not including any source of state funding, of at least 25 percent of the state grant in the first year, and at least 50 percent of the state grant in each subsequent year, and demonstrate the ability to comply with that matching requirement.

(2) Demonstrate successful delivery of all services required under contract with the State Department of Education through its child development division.

(3) Have a demonstrated capability to coordinate and work successfully with existing community resources.

(4) Participate in state orientation and technical assistance activities conducted under this article.

(5) Submit a plan outlining the proposed development and delivery of services in accordance with Section 8216 over the life of the contract, including the identification of resources in the community to be utilized and methods for securing the use of those resources; the manner in which the pilot project would be integrated into the program operated under Article 2 (commencing with Section 8210).

8218. The State Department of Education shall evaluate the pilot program authorized under this article and shall submit the evaluation to the Legislature on or before May 30, 1992. The evaluation of the program shall include, but not be limited to, the department's determination of all of the following:

(a) The extent to which the program meets the legislative purposes and intent set forth in this article.

(b) Whether the program provides preventative, proactive, social, or educational services.

(c) Whether there is a need to expand the program to a statewide basis, and whether the services provided by the program are duplicative of other state or local services.

(d) The direct and indirect program benefits to the parents and children who are participants in the program.

(e) The effectiveness of the program in preventing family crises, child abuse, and neglect.

(f) The characteristics of the targeted service population.

8219. This article shall become inoperative on June 30, 1992, and, as of January 1, 1993, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1993, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the State Department of Education for the purposes of Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code for the period of January 1, 1989, to June 30, 1989, inclusive. It is the intent of the Legislature that funds necessary in future years for the purpose of the Parent-Child Information Pilot Project as added to Article 2.5 (commencing with Section 8216) of Chapter 2 of Part 6 of the Education Code, be appropriated in the Budget Act of subsequent fiscal years.

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

In order to initiate the system provided for under Section 1 of this act in response to current critical needs related to child care and development, it is necessary that this act take effect immediately.

CHAPTER 973

An act to amend Sections 66701, 71000, 71001, 78205, 84381, 84713, 87102, 87104, 87454, 87457, 87602, 87663, and 87743 of, to add Sections 71020.5, 71090.5, 78212.5, 84750, 84755, 87001, 87107, 87482.6, 87608.5, 87610.1, 87615, 87743.1, 87743.2, 87743.3, 87743.4, and 87743.5 to, to add Article 5 (commencing with Section 87150) to Chapter 1 of Part 51 of, to add Chapter 9.2 (commencing with Section 66720) to Part 40 of, and Chapter 2.5 (commencing with Section 87350) to Part 51 of, to add Part 43.5 (commencing with Section 70900) to Division 7 of, to repeal and add Sections 71020, 72411.5, 87458, 87605, 87608, 87609, 87610, and 87611 of, to repeal Sections 71023, 71025, 71026, 71027, 71028, 71062, 71063, 71064, 71066, 71068, 71069, 71070, 71071, 71072, 71073, 71075, 71076, 71079, 71080, 71091, 72201, 72230, 72231.5, 72233, 72282, 72284, 72285, 72286, 72287, 72288, 72289, 72290, 72291, 72292,

72300, 78200, 87455, and 87456 of, and to repeal Chapter 2 (commencing with Section 87200) of Part 51 of, the Education Code, relating to community colleges, and making an appropriation therefor.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

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

SECTION 1. The Legislature finds and declares as follows, with regard to the general background and intent of this act:

(a) The California Community Colleges face an unprecedented challenge in the coming two decades, as California undergoes a major demographic, social, and economic transformation. The community colleges are at the center of this change, and the state's future as a healthy and free, diverse, and creative society depends in major part upon the commitments expressed through and in the community colleges.

(b) The community colleges educate hundreds of thousands of Californians every year, are the route to higher education for the majority of our people, provide access to language and citizenship for tens of thousands of immigrants annually, retrain workers in an economy changing more rapidly than any in history, and are the last hope for older citizens seeking skills and involvement in their communities. To do these things well, to bring excitement and power into the lives of students so diverse and needing so much, to serve the economy and society through its service of these students, requires a deep commitment from all who teach and learn, from those who administer and counsel, from those who fund and regulate.

(c) The community colleges embody an historic commitment to provide an opportunity for college instruction for all Californians capable of benefiting from instruction. The community colleges have historically found their mission in the statewide scheme for higher education, the Master Plan for Higher Education, and in local commitments to meet the needs of different communities—urban and rural, middle class and poor. From these sources have come the conviction, and the fact, that the community colleges ought to provide high quality lower division instruction for purposes of transfer to baccalaureate institutions, and a wide range of courses and programs to meet vocational and basic education needs. The community colleges have been notable because they are local and accessible, diverse in their responsiveness to local needs, and yet have maintained standards capable of placing students in any of the state's universities or in any of the state's industries.

(d) Since the development of the original master plan, there has been a significant change in the populations served by the community colleges, and in the anticipated needs of the state as we

move into the 21st century. The state's population will grow by 22 percent between 1986 and 2000, from 27 million to roughly 33 million. By the turn of the century, California will have a cultural and ethnic pluralism unknown elsewhere in the mainland United States. Fifty-one percent of the schoolage children in 1989 will be minorities; the majority of the population will be nonwhite in the following decade. However, there is no one "minority community;" rather there will be recent immigrants from Asia and Central America, the children of today's urban ghettos, and members of the "working poor." These communities of Californians will turn increasingly to the community colleges for language training, job reskilling, technical education, or the liberal arts.

(e) By the year 2000, California will be proportionally older; 20 percent will be senior citizens. California will have more elderly citizens than any other state in the nation. These citizens will turn, as they have already, to the community colleges for continuing education and job skills.

(f) By the turn of the century, increasingly more working men and women will come to the community colleges to acquire job skills and retraining. In an economy of rapid change and intense international competition, there will be much job displacement, sometimes on a massive scale. The periodic recessions and the unpredictable collapse of one or more markets, or industries will cause new students to matriculate to the community colleges. But inside the economic center—not just at its margins—the workers of the future will need new literacy skills, and more ability to communicate and learn on their own. When analysts predict a labor shortage in California by 2000, the real issue will not be numbers but quality. The important questions will be whether working men and women will have the skills required for jobs of rapid transformation, and whether California will be able to compete economically with other states now making massive investment in their educational systems.

(g) The convergence of these tendencies—both demographic and economic—lead to the possibility of an increasingly stratified society. This can include what has been called a "permanent underclass;" mostly minority, and a semipermanent, semiemployable stratum of low-skilled workers. The consequences of this development would be dire: the permanent underutilization of the energies and talents of our people, the deepening of racial resentments and fears, and the constant anxiety among more and more of us that the future has no place for us.

(h) The Legislature is committed to an alternative vision in which California remains a place of opportunity and hope—where innovation and creativity mark our economy and our culture, and where the minds and spirits of all our communities contribute to our common future. The community colleges will be at the heart of whatever effort we make to insure that the future is equitable and open, that California's economy remains healthy and growing, and

that both rural towns and rapidly expanding urban centers have educational resources close at hand. The community colleges are not the only place in which Californians will make their investment for an expansive and decent future, but they will have to be one such essential place.

(i) The community colleges—once envisaged as "junior colleges" devoted primarily to providing middle-class youth with a local option to the lower-division years of college—will be called upon for the tasks of retraining workers, teaching English to those recently among us, providing skills and opportunities for the elderly, providing a second chance to those who were failed by our secondary schools, and still providing lower division transfer education of quality and integrity for all who want it.

(j) The majority of people in California welcome this new epoch as a challenge of unprecedented opportunity. The Legislature shares this view, and expresses the intent that sufficient funding and resources of this state be provided to forge into a new range of educational engagements for our people. It is important in this regard to honor those who teach basic skills and literacy, as well as those who teach Shakespeare and Plato, to facilitate effective communication between "vocational" and "liberal arts" departments in an epoch where all vocations will require deeper and more subtle forms of literacy, and to build a new and diverse curriculum which engages all our diverse students, and demands the best of their minds and spirits.

(k) The people of California should have the opportunity to be proud of a system of community colleges which instills pride among its students and faculty, where rigor and standards are an assumed part of a shared effort to educate, where the hugely diverse needs of students are a challenge rather than a threat, where the community colleges serve as models for the new curricula and innovative teaching, where learning is what we care about most.

(*l*) It is the intent of the Legislature in enacting this act, to strengthen the capacity of the community colleges to meet the emerging needs of our state, and in particular, to better ensure that all Californians are offered a chance, challenged and taught with imagination and inspiration, offered assistance and counseling, and held to honest standards.

SEC. 2. The Legislature finds and declares the following with regard to the problems facing the California Community Colleges, and their mission and functions in resolving those problems:

(a) As the Commission for the Review of the Master Plan for Higher Education noted in its report, and as others have noted, the decline in the number of students seeking to transfer from the California Community Colleges to four-year educational institutions is attributable to a variety of factors, including, but not limited to, a decreased number of high school graduates, a lack of coordination among postsecondary segments and between postsecondary and secondary institutions, and the inadequate provision of student

financial aid. This decline represents a serious threat to the historical objective of the community college system to provide access to quality education regardless of personal circumstance. The Legislature finds and declares that transfer between the California Community Colleges and California's four-year public universities is a matter of statewide concern.

(b) If the community college system is to fulfill its role in meeting the educational needs of this state in future years, there is a need for a reinvigorated transfer program in that system, involving a closer articulation between the community colleges and the other segments of public postsecondary education as to educational programs, expectations, and responsibilities, and involving the communication of the respective educational expectations of those segments to the high schools. The provision of quality transfer education is a primary mission of the community colleges.

(c) There is also a growing need in this state for quality courses and programs of baccalaureate program quality in the community college system for students who either do not desire to transfer to a four-year educational institution or who already possess a baccalaureate degree.

(d) Vocational and technical education is a primary mission of the California Community Colleges, and programs of study leading to employment meet the needs of both students and society. The dramatic changes in California's economy will require, however, an ongoing and thorough review of the relevance and responsiveness of current vocational education programs, as well as the relationship between those programs throughout the state.

(e) It is necessary that the Board of Governors of the California Community Colleges initiate, through the chancellor's office, a detailed examination of the implications of current economic developments and trends for the development of vocational education programs. In the agriculture, manufacturing, and services sectors, new technologies, the reorganization of production, and the shifting international context require that review.

(f) Current vocational programs in the California Community Colleges appropriately include both academic certificate or degree programs and short-term jobs skills and retraining programs. Both are essential to meet the rapidly shifting needs within the economy. Within many of those programs, however, there is a need for greater continuity between the high schools, the community colleges, and the four-year colleges or universities.

(g) Vocational "tracks" should have as much connection as possible with courses in the liberal arts and general education. This ensures the greatest variety of career options for students, and addresses a growing conviction on the part of industry that vocational training must include a broad variety of literacy skills beyond technical expertise. The chancellor's office should initiate a review of the curricular relationships between vocational and general education programs.

(h) As indicated by the Commission for the Review of the Master Plan for Higher Education, there exist patterns of gender and ethnic underrepresentation in a number of vocational education programs. For example, in 15 of the 30 largest community college vocational education programs, over 80 percent of the students are of the same gender.

(i) There is a massive and growing demand in this state for remedial education, resulting from a decline in high school academic standards, the increasing dropout rate, restrictions on funding of adult education programs in the public schools, and the growing number of adults seeking basic skills, language, and literacy training. This need exists in all ethnic groups, and affects students from all socioeconomic backgrounds, whether or not high school graduates. The provision of remedial education is an essential and important mission of the community colleges.

(j) The success of the assessment, counseling, and placement system in the community colleges depends upon the ability of community college districts to provide a full range of courses of remedial instruction and related support services.

(k) The effectiveness of a program of remedial instruction in offering educational opportunity to underprepared students requires better coordination between adult education programs and community college programs, based upon locally negotiated agreements between those institutions for the provision of remedial instruction.

(*l*) Courses in English as a second language are vital to California's transition to a future as a multicultural society in which men and women of diverse backgrounds can share a common language, and to the opportunity for hundreds of thousands of recent immigrants to become participants in our society. The provision of English as a second language is an essential and important mission of the ommunity colleges.

(m) English as a second language is needed by students having enormously varied backgrounds as to place of origin and level of preexisting educational skills, and is therefore necessary as a means of applying their abilities in an English-speaking culture, rather than as an effort to provide remediation or retraining.

(n) Because the programs in English as a second language currently offered in the California Community Colleges and the adult schools are inadequate to meet the growing need in this state for those programs, it is essential that the community colleges seek to coordinate those programs with local adult education schools, if any.

(o) Adult literacy training and basic skills education are among the most difficult challenges facing California education in the next 15 years, based upon 1980 census figures showing that over four million adults in this state, and perhaps up to 25 percent of California's adult population, may be illiterate.

(p) Illiteracy prevents those Californians from reading

newspapers, work manuals, and labels on cans of poison, and results in incalculable costs to this state in terms of lost economic productivity, higher welfare and public assistance expenditures, unemployment, crime, social isolation, and personal exclusion.

(q) Whereas democracy depends upon an informed and engaged population, the percentage of our citizens voting in elections is among the lowest of any democracy in the entire world, a fact that may be related to our rate of literacy, which is lower than that of any other industrial democracy.

(r) Programs in noncredit adult education, including adult literacy and citizenship programs conducted in the California Community Colleges are important and essential functions of that system. The relationship between those programs and similar programs offered by other institutions, governed by a variety of authorities, requires clarification.

(s) The Legislature should require that local agreements be entered into between various educational entities for the provision of adult literacy training and basic skills education.

SEC. 3. It is the intent of the Legislature that the California Community Colleges be governed under an efficient and flexible system, providing adequate fiscal oversight and development of educational standards at the state level, and incentive to design programs meeting the particular needs of each district at the local level. The Legislature recognizes that the California Community Colleges is a statewide system with common standards and practices governing local initiative and control. The Legislature therefore finds and declares that clarifying and strengthening the respective roles of the Board of Governors and the Chancellor of the California Community Colleges will enhance the efficiency and flexibility of the system.

SEC. 4. The Legislature finds and declares the following with regard to faculty, administrators, and staff of the California Community Colleges:

(a) The California Community Colleges will face a severe hiring crisis in the next 15 years. It is estimated that fully 55 percent of the current full-time faculty will retire in that period. In this regard there are three major interlocking issues which must be considered:

(1) There must be guarantees that the full-time positions which become open because of the retirement of these faculty members not be divided into part-time positions that are less expensive to fill than the full-time positions. The division of full-time positions that become vacant into part-time positions is currently occurring all too frequently. The maintenance of a fully staffed, full-time faculty is an essential element of a coherent program.

(2) Competition for qualified persons is intense, from both other sectors of education and private business.

(3) Given the emerging turnover in faculty vacancies, the next 15 years represent the last major "window of opportunity" to significantly change the ethnic mix of the faculty during the next 30

years. It will be imperative for the faculty to be sympathetic and sensitive to cultural diversity in the colleges especially when the student body is continually changing. One means of ensuring this is for the faculty to be culturally balanced and more representative of the state's diversity.

(b) If the community colleges are to respond creatively to the challenges of the coming decades, they must have a strong and stable core of full-time faculty with long-term commitments to their colleges. There is proper concern about the effect of an overreliance upon part-time faculty, particularly in the core transfer curricula. Under current conditions, part-time faculty, no matter how talented as teachers, rarely participate in college programs, design departmental curricula, or advise and counsel students. Even if they were invited to do so by their colleagues, it may be impossible if they are simultaneously teaching at other colleges in order to make a decent living.

(c) However, in many areas the employment of part-time temporary faculty is both appropriate and necessary, especially in vocational programs where part-time faculty members may be practicing professionals in the field.

(d) Decisions regarding the appropriateness of part-time faculty should be made on the basis of academic and program needs, however, and not for financial savings. The Legislature's concern about abuses in this regard led to the establishment of the current statutory cap on part-time employment.

(e) There is widespread concern about the current tendency to fill "retiring" full-time positions with multiple part-time positions, and that there is a financial incentive to do so. Under current formulae, part-time faculty receive less money than do full-time faculty, and do not receive benefits. Thus, proposals concerning the status and conditions of part-time faculty will depend upon changes in the pay structure as well as the overall financing of the colleges.

(f) Changes in the governance of the California Community Colleges will affect, and be affected by, current collective bargaining agreements and the statutes governing those agreements, and that with regard to jurisdictional matters and questions of process, there can be considerable confusion regarding the relationship between collective bargaining agents, academic units organized through the colleges including departments and schools, and the academic senates.

(g) Community college instructors, recruited directly from graduate school or from some form of employment other than teaching, may not be prepared to deal effectively with the wide range of student abilities and attitudes found in community college classrooms. As larger numbers of students from many different cultural backgrounds and with significant English language and other deficiencies are enrolled, the problem will become more serious for both administrators and faculty. The proposed establishment of a student assessment, counseling, and placement

program on each campus will also require additional training and assistance for both faculty and administrators.

(h) Professional development for faculty, support staff, student services staff, and administrators is vital. Further, the success of the assessment, counseling, and placement programs will depend upon the effectiveness of this training.

(i) The recruitment of faculty into the community colleges, and the maintaining of morale and enthusiasm among the faculty depends in large part upon the intellectual and personal environment within which faculty work. Much of that environment is created by their own authority over the substantive direction of the programs and courses in which they work, through the quality of their relationship with the college administration, and in the quality of their interactions with the communities of students they teach. At the same time, it is apparent that faculty morale comes from their engagement in the development of new and innovative programs, from their engagement in professional and discipline-based associations, and from an active, intellectual life as scholars and teachers.

(j) Community colleges have less resources available for faculty professional and intellectual development than do other segments of the system of higher education, and this disparity may become a substantial barrier to the future recruitment of quality faculty. Yet, faculty in the community colleges should be no less intellectually engaged than their colleagues in the other segments. Their primary commitment to teaching makes it imperative that they have a vibrant and rich intellectual life.

(k) The success of the assessment, counseling, and placement system in the California Community Colleges will depend upon the commitment and dedication of trained student services staff. The importance of their role stretches across all aspects of community college life—including: counseling, reading and computational assessment and evaluation, financial aid assistance, providing and directing tutorial services, providing outreach into the local community, providing information to continuing students, and assisting the faculty in designing and providing courses of study which meet the particular needs of very different students. It is essential that the college have adequate service staff, and that they be superbly trained, especially in view of the current diversity of student educational needs in the community colleges.

(*l*) The tenure system is an important prerequisite for the maintenance of academic freedom, continuity in academic and vocational programs, and development of a faculty committed to the long-term health of the community colleges. At the same time, the tenure system is a central part of the governance of the colleges. Thus, the determination of standards for tenure, procedures governing tenure, and the actual granting of tenure determine in large part the substantive direction of the colleges.

(m) The current tenure system lacks adequate participation by

the faculty, provides an inadequate probationary period for the evaluation of permanent faculty, and does not provide uniform systemwide procedures for due process and grievance.

(n) It is a general purpose of this act to improve academic quality, and to that end the Legislature specifically intends to authorize more responsibility for faculty members in duties that are incidental to their primary professional duties. It is the intent of the Legislature that, in exercising these increased responsibilities, faculty members are not deprived of their status as employees under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. It is also the intent of the Legislature that the exercise of this increased responsibility shall not make these faculty members managerial or supervisory employees, as those terms are defined in that chapter.

There has been a great deal of uncertainty as a result of the decision of the United States Supreme Court in National Labor Relations Board v. Yeshiva University, 444 U.S. 672, 63 L. Ed. 2d 115, regarding whether increased faculty involvement in institutional governance and decisionmaking might subject the faculty members to legal challenges in connection with their rights of collective bargaining. This act is intended to enable faculty members who perform the duties described in subdivision (e) of Section 87610.1 of the Education Code to avoid having to choose between collective bargaining and greater participation in these functions by ensuring that increased participation in the tenure system, which occurs as an outgrowth of this act, shall not subject faculty members to losing their status as employees under Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(o) Any set of laws, regulations, directives, or guidelines regarding community college faculty and administrator qualifications, evaluation, hiring, or retention should promote the efforts of local community colleges to ensure that their faculty and administration consists of:

(1) Teachers who can teach and who are experts in the subject matter of their curriculum.

(2) Counselors, librarians, and other instructional and student service faculty who can foster college effectiveness and who are experts in the subject matter of their specialty.

(3) Administrators who can lead, organize, plan, and supervise; who understand the needs of faculty and the learning process; and who value institutional governance based upon a genuine sharing of responsibility with faculty colleagues.

(p) (1) The laws regulations, directives, or guidelines should help the community colleges ensure that the faculty and administrators they hire and retain are people who are sympathetic and sensitive to the racial and cultural diversity in the colleges, are themselves representative of that diversity, and are well prepared by training and temperament to respond effectively to the educational needs of all the special populations served by community colleges.

(2) All state and local policies, rules, and regulations regarding community college faculty and administrator qualifications, evaluation, hiring, or retention should strengthen faculty, administration, and board cooperation in matters related to those topics. They should also strengthen the role of the faculty as an authoritative, professional collegiate body.

(q) (1) In general, the appropriate focus of minimum qualifications is in helping the colleges to ensure that they will select faculty who are competent in subject matter and possess the basic academic preparation needed to work effectively at the college level. The minimum qualifications for all faculty should be the same except where the application of qualifications without differentiation would be clearly unreasonable or impractical.

(2) The minimum qualifications for administrators should help the colleges to ensure that they will select individuals who are competent to perform the kind of administrative responsibilities that administrators are normally required to assume, such as supervision, organizational planning, and budget development and administration, and who understand the needs of faculty and the learning process.

(r) (1) The pool of underrepresented individuals interested in faculty and administrative positions in the community colleges should be increased. Furthermore, practical and effective ways of finding and recruiting those individuals should be developed and maintained. The state's leadership in this effort is appropriate and urgently needed.

(2) The hiring process for administrators and faculty (both temporary and permanent) should be designed so that both faculty and administrators take real responsibility for meeting affirmative action goals and ensuring that affirmaive action considerations effectively influence hiring decisions.

(s) (1) No single approach to hiring faculty can guarantee attainment of the colleges' affirmative action goals and consistent selection of qualified individuals. Nevertheless, any hiring process adopted by a college should require the joint and cooperative exercise of responsibility by the faculty, administration, and board and should reflect the differing source of each participant's authority and the kind of responsibility that authority conveys.

(2) The governing board of a community college district derives its authority from statute and from its status as the entity holding the institution in trust for the benefit of the public. As a result, the governing board and the administrators it appoints have the principal legal and public responsibility for ensuring an effective hiring process.

(3) Faculty members derive their authority from their expertise as teachers and subject matter specialists and from their status as professionals. As a result, the faculty has an inherent professional responsibility in the development and implementation of policies and procedures governing the hiring process.

(4) Beyond requiring a joint and cooperative exercise of responsibility, the hiring process should be focused on ensuring that the community colleges will select teachers who can teach and who are experts in the subject matter of their curriculum; and counselors, librarians, and other instructional and student services faculty who can foster community college effectiveness and who are experts in the subject matter of their specialty. This means that the colleges may establish criteria for hiring that go well beyond the minimum qualifications set by regulation. The establishment of additional criteria of this sort should be expected and encouraged.

(5) The focus of the hiring process for administrators is slightly different from the focus in hiring teachers. In hiring teachers, the goal is to find people who can teach, but in hiring administrators the goal is to ensure that the community colleges will select administrators who are competent to perform the kind of administrative responsibilities that administrators are normally required to assume in the context of the operation and programs of the community colleges.

(t) The state should provide the community colleges with enough resources and a sufficiently stable funding environment to enable them to predict their staffing needs and to establish highly effective hiring processes. While the precise nature of the hiring process for faculty should be subject to local definition and control, each community college should, in a way that is appropriate to its circumstances, establish a hiring process that ensures that:

(1) Emphasis is placed on the responsibility of the faculty to ensure the quality of their faculty peers.

(2) Both faculty members and administrators participate effectively in all appropriate phases of the process.

(3) Positions to be filled are normally identified through a well defined, thoughtful, planning process.

(4) The time between the announcement of each position and the selection of a candidate for hire is long enough to allow a thorough, complete, and thoughtful search.

(5) Clear and complete job descriptions, including all job-related skills requirements and any additional qualifications recommended by the faculty when appropriate, are prepared for each position, and these job descriptions are reviewed before each position is announced, to ensure conformity with the community college's affirmative action and nondiscrimination commitments.

(6) All participants in the process are given appropriate training in affirmative action procedures and the affirmative action goals and timetables of the community college so that success in reaching those goals is better assured.

(7) Individuals, preferably minorities or women, who are knowledgeable about and responsible to the community college's affirmative action goals are included on all selection committees or similar groups.

(8) Final hiring decisions are, whenever reasonably possible,

made during the regular academic year and promptly communicated to the faculty; the expectation that faculty recommendations regarding the hiring of faculty will normally be accepted is reinforced; and only in exceptional circumstances, and for compelling reasons communicated to the selection committee and to the president of the academic senate of the college, will someone be hired as a faculty member who has not been found to be among the best qualified by the faculty.

(u) The state should provide the community colleges with enough resources and a sufficiently stable funding environment to enable them to predict their staffing needs and to establish highly effective hiring processes. While the precise nature of the hiring process for administrators should be subject to local definition and control, each community college should, in a way that is appropriate to its circumstances, establish a hiring process which ensures that:

(1) Representatives of the faculty and other employees whose circumstances at work will be directly affected by the employment of the administrator participate effectively in all appropriate phases of the process.

(2) Positions to be filled are normally identified through a well defined, thoughtful, planning process.

(3) The time between the announcement of each position and the selection of a candidate for hire is long enough to allow a thorough, complete, and thoughtful search.

(4) Clear and complete job descriptions that include all job-related skills requirements are prepared for each position and these job descriptions are reviewed before each position is announced, to ensure conformity with the community college's affirmative action and nondiscrimination commitments.

(5) All participants in the process are given appropriate training in affirmative action procedures and goals and timetables of the community college, so that success in reaching those goals is better assured.

(6) Individuals, preferably minorities or women, who are knowledgeable about and responsive to the college's affirmative action goals are included on all selection committees or similar groups.

(7) Final hiring decisions are, whenever reasonably possible, made during the regular academic year and promptly communicated to the faculty and staff.

(v) (1) The evaluation process should promote professionalism, enhance performance, and be closely linked with staff development efforts.

(2) The evaluation process should be effective in yielding a genuinely useful and substantive assessment of performance. Among other things, this requires an articulation of clear, relevant criteria on which evaluations will be based.

(3) The evaluation process should be timely. This requires that evaluations be performed regularly at reasonable intervals.

(4) The specific purposes for which evaluations are conducted should be clear to everyone involved. This requires recognition that the principal purposes of the evaluation process are to recognize and acknowledge good performance, to enhance satisfactory performance and help employees who are performing satisfactorily further their own growth, to identify weak performance and assist employees in achieving needed improvement, and to document unsatisfactory performance.

(5) A faculty member's students, administrators, and peers should all contribute to his or her evaluation, but the faculty should, in the usual case, play a central role in the evaluation process and, together with appropriate administrators, assume principal responsibility for the effectiveness of the process.

(6) The procedures defined by negotiations should foster a joint and cooperative exercise of responsibility by the faculty, administration, and governing board of the community college and should reflect faculty and administrator expertise and authority in evaluating professional work as well as the governing board's legal and public responsibility for the process.

(w) Faculty tenure fosters academic freedom and should be maintained. For administrators, the need for job security justifies appointments of reasonable duration, but no one should obtain tenure or permanent status in an administrative position. A person should be granted tenure as a faculty member only after it has been determined through a process of evaluation that he or she is, and will likely continue to be, a positive asset to the community college. In other words, the award of tenure should be an affirmative act, rather than the result of default. The faculty's inherent professional reponsibility to ensure the quality of their faculty peers requires faculty review to be at the heart of the evaluation process leading to tenure decisions.

SEC. 4.5. It is the intent of the Legislature that the Board of Governors of the California Community Colleges be broadly and equitably representative of the general public and that appointments to the board of governors include adequate representation on the basis of sex and on the basis of the major racial, ethnic, and economic groups in the state.

SEC. 5. The Legislature finds and declares the following with regard to access to the California Community Colleges, and the importance and value of success to those who participate in the system:

(a) It is the responsibility of this state to provide to every Californian the opportunity to realize his or her intellectual, emotional, and vocational potential. To fulfill this responsibility, and to ensure that California enjoys a healthy economy and society, open access to a quality community college system must be affirmed for a diverse student population, which includes, but is not limited to, recent high school graduates, senior citizens, persons who are Caucasian, Black, Asian, and Hispanic, disabled men and women,

persons at a variety of income levels, businessmen and businesswomen, single parents, women reentering the work force, high school dropouts, and persons with baccalaureate degrees.

(b) It is the joint responsibility of the student and the community college to realize the student's goals and aspirations, which often change during the educational experience and which include such diverse purposes as literacy training, English acquisition and development both for persons whose primary language is English and persons having other primary languages, vocational training, job reskilling, skills enhancement, and education oriented toward transfer to a four-year college or university.

(c) Open access to community colleges must be assured for all adults who can benefit from instruction, which access is meaningful only if supported by a system of assessment, counseling, and placement that assists students in identifying their talents and abilities, directs them to courses that meet their needs, and maintains standards designed to ensure their success.

SEC. 6. Section 66701 of the Education Code is amended to read:

66701. (a) Public community colleges shall offer instruction through but not beyond the second year of college. These institutions may grant the associate in arts and the associate in science degree.

(b) Authorized instruction in the community colleges shall include standard collegiate courses for transfer to other institutions, vocational and technical courses leading to or upgrading, or leading to and upgrading, employment, general or liberal arts courses, adult noncredit courses, and community services programs and courses. However, priorities in the instructional programs shall be as follows:

(1) The primary mission of the community colleges is the provision of rigorous, high quality degree and certificate curricula in lower division arts and sciences and in vocational and occupational fields.

(2) The provision of remedial instruction, English as a second language instruction, and support services which help students succeed at the postsecondary level are essential and important functions of the community colleges.

(3) The provision of adult noncredit education curricula in areas defined as being in the state's interest is an essential and important function of the community colleges.

(4) The provision of community services courses and programs is an authorized function of the community colleges so long as their provision is compatible with an institution's ability to meet its obligations in its primary missions.

SEC. 7. Chapter 9.2 (commencing with Section 66720) is added to Part 40 of the Education Code, to read:

CHAPTER 9.2. STUDENT TRANSFER

66720. The Board of Governors of the California Community Colleges, the Regents of the University of California, and the

Trustees of the California State University, with appropriate consultation with the Academic Senates of the respective segments, shall jointly develop, maintain, and disseminate a common core curriculum in general education courses for the purposes of transfer. Any person who has successfully completed the transfer core curriculum, shall be deemed to have thereby completed all lower division general education requirements for the University of California and the California State University.

66721. Upon development of the transfer core curriculum pursuant to Section 66720, and upon any subsequent joint revision of that curriculum, the Board of Governors of the California Community Colleges, the Regents of the University of California, and the Trustees of the California State University shall jointly cause the curriculum to be published and distributed to each public school in this state that provides instruction in any of the grades 7 to 12, inclusive, and to each community college in this state, with an emphasis on the communication of that information to each school or college having a high proportion of students who are members of one or more ethnic minorities. In addition, the Board of Governors shall distribute that transfer core curriculum to the State Board of Education, which shall apply that information to ensure, through its curriculum development activities, that public school pupils enrolled in any of the grades 9 to 12, inclusive, are aware of the academic requirements for preparation for higher education and may receive any necessary academic remediation in a timely manner.

66723. No provision of this chapter shall apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, makes that provision applicable.

SEC. 8. Part 43.5 (commencing with Section 70900) is added to Division 7 of the Education Code, to read:

PART 43.5. THE CALIFORNIA COMMUNITY COLLEGES

70900. There is hereby created the California Community Colleges, a postsecondary education system consisting of community college districts heretofore and hereafter established pursuant to law and the Board of Governors of the California Community Colleges. The board of governors shall carry out the functions specified in Section 70901 and local districts shall carry out the functions specified in Section 70902.

70901. (a) The Board of Governors of the California Community Colleges shall provide leadership and direction in the continuing development of the California Community Colleges as an integral and effective element in the structure of public higher education in the state. The work of the board of governors shall at all times be directed to maintaining and continuing, to the maximum degree permissible, local authority and control in the administration of the California Community Colleges.

(b) Subject to, and in furtherance of, subdivision (a), and in consultation with community college districts and other interested parties as specified in subdivision (e), the board of governors shall provide general supervision over community college districts, and shall, in furtherance thereof, perform the following functions:

(1) Establish minimum standards as required by law, including, but not limited to, the following:

(A) Minimum standards to govern student academic standards relating to graduation requirements and probation, dismissal, and readmission policies.

(B) Minimum standards for the employment of academic and administrative staff in community colleges.

(C) Minimum standards for the formation of community colleges and districts.

(D) Minimum standards for credit and noncredit classes.

(E) Minimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff, and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(2) Evaluate and issue annual reports on the fiscal and educational effectiveness of community college districts according to outcome measures cooperatively developed with those districts, and provide assistance when districts encounter severe management difficulties.

(3) Conduct necessary systemwide research on community colleges and provide appropriate information services, including, but not limited to, definitions for the purpose of uniform reporting, collection, compilation, and analysis of data for effective planning and coordination, and dissemination of information.

(4) Provide representation, advocacy, and accountability for the California Community Colleges before state and national legislative and executive agencies.

(5) Administer state support programs, both operational and capital outlay, and those federally supported programs for which the board of governors has responsibility pursuant to state or federal law. In so doing, the board of governors shall do the following:

(A) Annually prepare and adopt a proposed budget for the California Community Colleges. The proposed budget shall, at a minimum, identify the total revenue needs for serving educational needs within the mission, the amount to be expended for the state general apportionment, the amounts requested for various categorical programs established by law, the amounts requested for new programs and budget improvements, and the amount requested for systemwide administration.

The proposed budget for the California Community Colleges shall be submitted to the Department of Finance in accordance with

established timelines for development of the annual Budget Bill.

(B) To the extent authorized by law, establish the method for determining and allocating the state general apportionment.

(C) Establish space and utilization standards for facility planning in order to determine eligibility for state funds for construction purposes.

(6) Establish minimum conditions entitling districts to receive state aid for support of community colleges. In so doing, the board of governors shall establish and carry out a periodic review of each community college district to determine whether it has met the minimum conditions prescribed by the board of governors.

(7) Coordinate and encourage interdistrict, regional, and statewide development of community college programs, facilities, and services.

(8) Facilitate articulation with other segments of higher education with secondary education.

(9) Review and approve comprehensive plans for each community college district. The plans shall be submitted to the board of governors by the governing board of each community college district.

(10) Review and approve all educational programs offered by community college districts, and all courses that are not offered as part of an educational program approved by the board of governors.

(11) Exercise general supervision over the formation of new community college districts and the reorganization of existing community college districts, including the approval or disapproval of plans therefor.

(12) Notwithstanding any other provision of law, be solely responsible for establishing, maintaining, revising, and updating, as necessary, the uniform budgeting and accounting structures and procedures for the California Community Colleges.

(13) Establish policies regarding interdistrict attendance of students.

(14) Advise and assist governing boards of community college districts on the implementation and interpretation of state and federal laws affecting community colleges.

(15) Carry out other functions as expressly provided by law.

(c) Subject to, and in furtherance of, subdivision (a), the board of governors shall have full authority to adopt rules and regulations necessary and proper to execute the functions specified in this section as well as other functions that the board of governors is expressly authorized by statute to regulate.

(d) Wherever in this section or any other statute a power is vested in the board of governors, the board of governors, by a majority vote, may adopt a rule delegating that power to the chancellor, or any officer, employee, or committee of the California Community Colleges, or community college district, as the board of governors may designate. However, the board of governors shall not delegate any power that is expressly made nondelegable by statute. Any rule

delegating authority shall prescribe the limits of delegation.

(e) In performing the functions specified in this section, the board of governors shall establish and carry out a process for consultation with institutional representatives of community college districts so as to ensure their participation in the development and review of policy proposals. The consultation process shall also afford community college organizations, as well as interested individuals and parties, an opportunity to review and comment on proposed policy before it is adopted by the board of governors.

70901.5. (a) The board of governors shall establish procedures for the adoption of rules and regulations governing the California Community Colleges. Among other matters, the procedures shall implement the following requirements:

(1) Written notice of a proposed action shall be provided to each community college district and to all other interested parties and individuals, including the educational policy and fiscal committees of the Legislature and the Department of Finance, at least 45 days in advance of adoption. The regulations shall become effective no earlier than 30 days after adoption.

(2) The proposed regulations shall be accompanied by an estimate, prepared in accordance with instructions adopted by the Department of Finance, of the effect of the proposed regulations with regard to the costs or savings to any state agency, the cost of any state-mandated local program as governed by Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code, any other costs or savings of local agencies, and the costs or savings in federal funding provided to state agencies.

(3) The board of governors shall ensure that all proposed regulations of the board meet the standards of "necessity," "authority," "clarity," "consistency," "reference," and "nonduplication," as those terms are defined in Section 11349 of the Government Code. A district governing board or any other interested party may challenge any proposed regulatory action regarding the application of these standards.

(4) Prior to the adoption of regulations, the board of governors shall consider and respond to all written and oral comments received during the comment period.

(5) The effective date for a regulation shall be suspended if, within 30 days after adoption by the board of governors, at least two-thirds of all governing boards vote, in open session, to disapprove the regulation. With respect to any regulation so disapproved, the board of governors shall provide at least 45 additional days for review, comment, and hearing, including at least one hearing before the board itself. After the additional period of review, comment, and hearing, the board may do any of the following:

(A) Reject or withdraw the regulation.

(B) Substantially amend the regulation to address the concerns raised during the additional review period, and then adopt the revised regulation. The regulation shall be treated as a newly

adopted regulation, and shall go into effect in accordance with those procedures.

(C) Readopt the regulation as originally adopted, or with those nonsubstantive, technical amendments deemed necessary to clarify the intent of the original regulation. If the board of governors decides to readopt a regulation, with or without technical amendments, it shall also adopt a written declaration and determination regarding the specific state interests it has found necessary to protect by means of the specific language or requirements of the regulation. A readopted regulation may then be challenged pursuant to existing law in a court of competent jurisdiction, and shall not be subject to any further appeal within the California Community Colleges.

(6) As to any regulation which the Department of Finance determines would create a state-mandated local program cost, the board of governors shall not adopt the regulation until the Department of Finance has certified to the board of governors and to the Legislature that a source of funds is available to reimburse that cost.

(7) Any district or other interested party may propose a new regulation or challenge any existing regulation.

(b) Except as expressly provided by this section, and except as provided by resolution of the board of governors, the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to regulations adopted by the board of governors.

70902. (a) Every community college district shall be under the control of a board of trustees, which is referred to herein as the "governing board." The governing board of each community college district shall establish, maintain, operate, and govern one or more community colleges in accordance with law. In so doing, the governing board may initiate and carry on any program, activity, or may otherwise act in any manner that is not in conflict with or inconsistent with, or preempted by, any law and that is not in conflict with the purposes for which community college districts are established.

The governing board of each community college district shall establish rules and regulations not inconsistent with the regulations of the board of governors and the laws of this state for the government and operation of one or more community colleges in the district.

(b) In furtherance of the provisions of subdivision (a), the governing board of each community college district shall do all of the following:

(1) Establish policies for, and approve, current and long-range academic and facilities plans and programs and promote orderly growth and development of the community colleges within the district. In so doing, the governing board shall, as required by law, establish policies for, develop, and approve, comprehensive plans. The governing board shall submit the comprehensive plans to the

board of governors for review and approval.

(2) Establish policies for and approve courses of instruction and educational programs. The educational programs shall be submitted to the board of governors for approval. Courses of instruction that are not offered in approved educational programs shall be submitted to the board of governors for approval. The governing board shall establish policies for, and approve, individual courses that are offered in approved educational programs without referral to the board of governors.

(3) Establish academic standards, probation and dismissal and readmission policies, and graduation requirements not inconsistent with the minimum standards adopted by the board of governors.

(4) Employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

(5) To the extent authorized by law, determine and control the district's operational and capital outlay budgets. The district governing board shall determine the need for elections for override tax levies and bond measures and request that those elections be called.

(6) Manage and control district property. The governing board may contract for the procurement of goods and services as authorized by law.

(7) Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level and to ensure that these opinions are given every reasonable consideration, and the right to participate effectively in district and college governance, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

(8) Establish rules and regulations governing student conduct.

(9) Establish student fees as it is required to establish by law, and, in its discretion, fees as it is authorized to establish by law.

(10) In its discretion, receive and administer gifts, grants, and scholarships.

(11) Provide auxiliary services as deemed necessary to achieve the purposes of the community college.

(12) Within the framework provided by law, determine the district's academic calendar, including the holidays it will observe.

(13) Hold and convey property for the use and benefit of the district. The governing board may acquire by eminent domain any property necessary to carry out the powers or functions of the district.

(14) Participate in the consultation process established by the board of governors for the development and review of policy proposals.

(c) In carrying out the powers and duties specified in subdivision

(b) or other provisions of statute, the governing board of each community college district shall have full authority to adopt rules and regulations, not inconsistent with the regulations of the board of governors and the laws of this state, that are necessary and proper to executing these prescribed functions.

(d) Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate; provided, however, that the governing board shall not delegate any power that is expressly made nondelegable by statute. Any rule delegating authority shall prescribe the limits of the delegation.

SEC. 9. Section 71000 of the Education Code is amended to read:

71000. There is in the state government a Board of Governors of the California Community Colleges, consisting of all of the following:

(a) Thirteen members, who are appointed by the Governor with the advice and consent of two-thirds of the Senate. Of the members appointed by the Governor, two shall be current or former elected members of local community college district governing boards. The Governor shall appoint the current or former members of the governing board of a community college district for staggered six-year terms. The voting members who are current or former members of the governing board of a community college district shall first be appointed no later than January 15, 1990, and January 15, 1992, respectively.

(b) One voting student who is enrolled in a community college with a minimum of five semester units, or its equivalent, at the time of the appointment and throughout the period of his or her term of appointment, or until a replacement has been named. A student member shall be enrolled in a community college at least one semester prior to his or her appointment and shall meet and maintain the minimum standards of scholarship prescribed for community college students. The student member shall be appointed by the Governor for a one-year term commencing on June 1.

(c) Two voting tenured faculty members from a community college, who shall be appointed by the Governor for two-year terms. The Governor shall appoint each faculty member from a list of names of at least three persons furnished by the Academic Senate of the California Community Colleges. The first voting tenured faculty member appointed to the board shall occupy the seat on the board that is made available by the next full-term vacancy of a four-year term that exists after January 1, 1984. The first voting tenured faculty member appointed to the additional voting tenured faculty member seat on the board provided by the amendments to this section enacted by the Statutes of 1987 shall occupy the second seat on the board that is made available by the next full-term vacancies that exist after January 1, 1988. Thereafter, each seat shall be designated as a

voting tenured faculty member seat and shall in the future be filled by a tenured faculty member from a community college pursuant to this section and Section 71003.

(d) Commencing with appointments made on or after January 1, 1990, all members of the board shall be appointed for staggered six-year terms, except in the case of the faculty appointments, which shall be two years, and the student appointment, which shall be one year, and the ex officio members, who shall serve during the period of their tenure in their respective state offices.

SEC. 9.5. Section 71001 of the Education Code is amended to read:

71001. (a) Except for the student member and the faculty member, the terms of office of the members of the board appointed by the Governor shall be as follows:

(1) To the positions expiring on December 1, 1985, the Governor shall appoint two persons whose terms shall expire on January 15, 1989.

(2) To the positions expiring on November 30, 1986, the Governor shall appoint three persons whose terms shall expire on January 15, 1988; three persons whose terms shall expire on January 15, 1990; and one person whose term shall expire on January 15, 1991.

(3) To the position expiring on January 2, 1987, the Governor shall appoint one person whose term shall expire on January 15, 1991.

(4) Commencing January 15, 1987, all terms of office of the members of the board, except the terms of the student member and the faculty members appointed by the Governor, shall be four years, and, commencing January 1, 1990, six years.

(b) Each term of office shall commence at the expiration of the preceding term.

(c) A member whose term has expired shall continue to discharge the duties of office until his or her successor is appointed by the Governor.

SEC. 10. Section 71020 of the Education Code is repealed.

SEC. 11. Section 71020 is added to the Education Code, to read:

71020. The board of governors shall develop and submit to the Governor, every three years, commencing July 1, 1989, an affirmative action paper concerning its own membership, providing the board's assessment of its role in statewide representation of minorities, women, and the disabled.

SEC. 11.5. Section 71020.5 is added to the Education Code, to read:

71020.5. (a) It is the intent of the Legislature in enacting this section to foster the creation, implementation, and phase-in of a comprehensive community college accountability system which describes the performance of community colleges in meeting the postsecondary educational needs of students. This educational and fiscal accountability system shall provide performance data on students, programs, and institutions.

It is further the intent of the Legislature that this accountability

system assist all participants in the community college system, including students, faculty, staff, administrators, local governing boards, the chancellor, the state board of governors, the public, and other interested constituencies, in identifying the educational and fiscal strengths and weaknesses of colleges in order to improve educational quality in community colleges.

(b) The board of governors shall develop and implement a comprehensive community college educational and fiscal accountability system. In developing and implementing this system, the board of governors shall solicit consultation from institutional and organizational representatives of the California Community Colleges, including statewide faculty and staff organizations. At a minimum, the system shall:

(1) Be consistent with the Legislature's intent as expressed in this act, Chapter 136 of the Statutes of 1987, and Chapter 1465 of the Statutes of 1986.

(2) Draw from, and build upon, the system proposed in the report entitled "AB 3409 Community College Accountability Report," prepared pursuant to Chapter 1465 of the Statutes of 1986.

(3) Be designed to promote student success in community colleges.

(4) Define and measure, quantitatively and qualitatively, accountability information, including:

(A) Student access to community colleges.

(B) The extent to which the community college student body reflects proportionately the adult population of the state.

(C) Student transfer rates and programs.

(D) Academic standards and student achievement.

(E) Student goal satisfaction and success in courses and programs.

(F) Completion rates of courses and programs.

(G) Occupational preparation relative to state and local workforce needs and for entry-level employment, occupational advancement, and career changes of students.

(H) Adequacy of basic skills and English as a Second Language courses and instruction in preparing students to succeed in collegiate level work.

(I) Adequacy of and student satisfaction with student services.

(J) The extent to which the community college workforce reflects proportionately the adult population of the state.

(K) Fiscal conditions of community college districts.

(5) Be designed to streamline the use of multiple performance measures from appropriate sources of data, including, but not limited to, matriculation evaluations, categorical program evaluations, the community college management information system, and other existing data collection and evaluation systems.

(6) Provide feedback to individual colleges in order to improve access to community colleges, student performance, and educational programs where needed.

(7) Produce a published report of community college

accountability.

(c) The Legislature finds and declares that successful implementation of a comprehensive educational and fiscal accountability system is, in part, dependent upon an adequate data collection and reporting system. The accountability system developed and implemented pursuant to this section shall be phased in, to the extent necessary, with the funding and local implementation of the community college management information system.

(d) The chancellor shall provide a written report on the accountability system developed pursuant to this section to the Legislature and Governor on or before July 1, 1990. This report shall not only delineate the accountability system and how it would be phased in, but shall differentiate between those portions of the system which can be implemented without imposing additional mandates on community college districts and those which can be implemented when additional funds are provided to reimburse the mandates on districts.

It is the intent of the Legislature that the accountability system be implemented over a three-year period, beginning not later than the 1991–92 academic year, which will provide student performance, program effectiveness, and institutional effectiveness information so that the accountability system, when fully implemented, will encompass the full range of information for effective decisionmaking, planning and budgeting.

SEC. 12. Section 71023 of the Education Code is repealed.

SEC. 12.1. Section 71025 of the Education Code is repealed.

SEC. 12.2. Section 71026 of the Education Code is repealed.

SEC. 12.3. Section 71027 of the Education Code is repealed.

SEC. 12.4. Section 71028 of the Education Code is repealed.

SEC. 12.5. Section 71062 of the Education Code is repealed.

SEC. 12.6. Section 71063 of the Education Code is repealed.

SEC. 12.7. Section 71064 of the Education Code is repealed.

SEC. 12.8. Section 71066 of the Education Code is repealed.

SEC. 12.9. Section 71068 of the Education Code is repealed.

SEC. 12.10. Section 71069 of the Education Code is repealed.

SEC. 12.11. Section 71070 of the Education Code is repealed.

SEC. 12.12. Section 71071 of the Education Code is repealed.

SEC. 12.13. Section 71072 of the Education Code is repealed.

SEC. 12.14. Section 71073 of the Education Code is repealed.

SEC. 12.15. Section 71075 of the Education Code is repealed.

SEC. 12.16. Section 71076 of the Education Code is repealed.

SEC. 12.17. Section 71079 of the Education Code is repealed.

SEC. 12.18. Section 71080 of the Education Code is repealed.

SEC. 12.19. Section 71091 of the Education Code is repealed.

SEC. 13. Section 71090.5 is added to the Education Code, to read:

71090.5. In addition to the position authorized by subdivision (e) of Section 4 of Article VII of the California Constitution, the Governor, with the recommendation of the board of governors, shall

appoint up to six deputy and vice chancellors, who shall be exempt from state civil service. These appointments shall not result in any increase in funds, available for expenditure by the board of governors in the 1989–90 fiscal year, above the total amount available to the board in the 1988–89 fiscal year. The appointments shall not exceed an aggregate total of six, for both the positions of deputy and vice chancellor.

SEC. 14. Section 72201 of the Education Code is repealed.

SEC. 14.2. Section 72230 of the Education Code is repealed.

SEC. 14.3. Section 72231.5 of the Education Code is repealed.

SEC. 14.4. Section 72233 of the Education Code is repealed.

SEC. 14.5. Section 72282 of the Education Code is repealed.

SEC. 14.6. Section 72284 of the Education Code is repealed.

SEC. 14.7. Section 72285 of the Education Code is repealed.

SEC. 14.8. Section 72286 of the Education Code is repealed.

SEC. 14.9. Section 72287 of the Education Code is repealed.

SEC. 14.10. Section 72288 of the Education Code is repealed.

SEC. 14.11. Section 72289 of the Education Code is repealed.

SEC. 14.12. Section 72290 of the Education Code is repealed.

SEC. 14.13. Section 72291 of the Education Code is repealed.

SEC. 14.14. Section 72292 of the Education Code is repealed.

SEC. 14.15. Section 72300 of the Education Code is repealed.

SEC. 15. Section 72411.5 of the Education Code is repealed.

SEC. 16. Section 72411.5 is added to the Education Code, to read:

72411.5. Every instructional or student services administrator of a community college district shall be employed, and all other administrators of a community college may be employed, by the governing board of the district by a contract not to exceed four years. The contract may be extended for periods of no more than four years at the discretion of the governing board. However, in the absence of an express agreement, every administrator shall serve in his or her administrative assignment at the pleasure of the governing board. The dismissal of, and imposition of penalties for cause on, an administrator employed by contract pursuant to this section shall, if the administrator does not have tenure as a faculty member, be in accordance with the terms of the contract of employment. If the administrator has tenure as a faculty member, the dismissal of, and imposition of penalties for cause on, the administrator shall be in accordance with the provisions applicable to faculty members.

SEC. 16.5. Section 78200 of the Education Code is repealed.

SEC. 17. Section 78205 of the Education Code is amended to read:

78205. The minimum requirement for graduation from a two-year community college course of study shall be 60 credit hours of work. An associate degree shall be awarded to any student who successfully completes the prescribed course of study for the degree while maintaining the requisite grade point average, the course of study required for the student's major, and any required academic elective courses.

SEC. 18. Section 78212.5 is added to the Education Code, to read:

78212.5. Each community college district may develop and maintain all of the following within each community college in the district:

(a) Career resource and placement centers having the purposes of maintaining information on vocational, technological and educational opportunities, and facilitating career employment.

(b) Programs to instruct appropriate staff and faculty members in the performance of matriculation services.

(c) Orientation programs designed to explain to new students academic requirements and other regulations of the community college, and the available student support services.

(d) A publicity program designed to inform the community served by the community college that the purposes of the mandatory matriculation process are intended to facilitate, rather than restrict, student access to community college instruction, and to enhance each student's awareness of his or her abilities, skills, and potential.

(e) A publicity program designed to inform high schools in the community served by the community college, through orientation programs and other means, of student skill levels, and of available student support services.

SEC. 19. Section 84381 of the Education Code is amended to read:

84381. There is hereby created in the State Treasury the Community College Fund for Instructional Improvement. The fund shall consist of a revolving loan program and a direct grant program to support alternative educational programs and services within or on behalf of the California Community Colleges, including:

(a) Nontraditional forms, content, and methods of instruction, including, but not limited to, the following.

(1) Instructional programs which involve internships and experiential learning opportunities.

(2) Individualized instructional programs which require student development of learning objectives through learning contracts.

(3) Instructional programs which focus on the development of interpersonal skills.

(4) Instructional programs involving independent study.

(b) Programs for improving teaching abilities of faculty members.

(c) Programs addressing special learning needs of educationally disadvantaged students.

(d) Educational services for new clientele, including older, working adults.

(e) Efforts to improve traditional instructional programs.

(f) Programs for the improvement of the intellectual development of faculty and staff, including, but not limited to, the following:

(1) Intersegmental summer programs including research projects and seminars.

(2) College programs bringing visiting scholars to local districts.

(3) Interdisciplinary programs involving local noncollege institutions in the arts and sciences.

(4) Intersegmental research and public information projects on topics of special concern to rural and urban California regarding the environment, social history, and culture.

(5) Summer "bridge" programs for the transition period into college life.

SEC. 20. Section 84713 of the Education Code is amended to read:

84713. This article shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 21. Section 84750 is added to the Education Code, to read:

84750. The board of governors, in accordance with the statewide requirements contained in subdivisions (a) to (j), inclusive, and in consultation with institutional representatives of the California Community Colleges and statewide faculty and staff organizations, so as to ensure their participation in the development and review of policy proposals, shall develop criteria and standards for the purposes of making the annual budget request for the California Community Colleges to the Governor and the Legislature, and for the purpose of allocating the state general apportionment revenues, beginning with the budget request for the 1991–92 fiscal year.

In developing the criteria and standards, the board of governors shall utilize and strongly consider the guidelines and work products of the Task Force on Community College Financing as established pursuant to Chapter 1465 of the Statutes of 1986, and shall complete the development of these criteria and standards, accompanied by the necessary procedures, processes, and formulas for utilizing its criteria and standards, by March 1, 1990, and shall submit on or before that date a report on these items to the Legislature and the Governor.

The board of governors shall develop the criteria and standards within the following statewide minimum requirements:

(a) The calculations of each community college district's revenue level for each fiscal year shall be based on the level of general apportionment revenues (state and local) the district received for the prior year plus any amount attributed to a deficit of minimum workload growth, with revenue adjustments being made for increases or decreases in workload, for program improvement as authorized by this section or by any other provision of law, for inflation, and for other purposes authorized by law.

(b) (1) For credit instruction, the funding mechanism developed pursuant to this section shall recognize the needs among the major categories of operation of community colleges, with categories established for instruction, instructional services and libraries, student services, maintenance and operations, and institutional support.

(2) The board of governors may propose to the Legislature, for enactment by statute, other cost categories when adequate data exist.

(3) Funding for noncredit classes shall be determined as follows:

(A) The preliminary amount per noncredit full-time equivalent student (FTES) for 1991–92 shall be equal to the comparable amount for 1990–91 with increases corresponding to the cost of living adjustment (COLA) specified in subdivision (e) and corresponding to any program improvement provided to the maintenance and operations category for 1991–92.

(B) Funds for maintenance and operations shall be included in the funds derived under paragraph (4) of subdivision (c).

(C) Funds for institutional support will be derived as part of the computation under paragraph (5) of subdivison (c).

(D) From the preliminary amount described in subparagraph (A), a deduction shall be made corresponding to the amounts derived in subparagraphs (B) and (C), and the remainder shall be the funded amount per noncredit FTES for 1991–92.

(E) Changes in noncredit FTES shall result in adjustments to revenues as follows:

(i) Increases in noncredit FTES shall result in an increase in revenues in the year of the increase and at the average rate per noncredit FTES.

(ii) Decreases in noncredit FTES shall result in a revenue reduction as follows:

(I) District revenue shall be adjusted at the average rate per noncredit FTES.

(II) Revenue adjustments shall be over a three-year period beginning in the year following the initial year of decrease in noncredit FTES.

(iii) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in noncredit FTES during the three years following the initial year of decrease in noncredit FTES if there is a subsequent increase in FTES.

(4) Except as otherwise provided by statute, current categorical programs providing direct services to students, including extended opportunity programs and services, and disabled students programs and services, shall continue to be funded separately through the annual Budget Act, and shall not be assumed under budget formulas of program-based funding.

(5) District revenues shall be determined based on systemwide funding standards within the categories, and revenue adjustments shall occur based on distinct measures of workload applicable to each category.

(c) Workload measures applicable to each category shall be established with the following measures to be provided:

(1) For credit instruction, the workload measure shall be the credit FTES. Changes in credit FTES shall result in adjustments in revenues as follows:

(A) Increases in FTES shall result in an increase in revenues in the year of the increase and at the statewide average per FTES.

(B) Decreases in FTES shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the statewide average per FTES.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per FTES.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in FTES.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in FTES during the three years following the initial year of decrease in FTES if there is a subsequent increase in FTES.

(2) For instructional services and libraries, the workload measure shall be the credit FTES. Changes in credit FTES with respect to instructional services and libraries shall result in adjustments to revenues as follows:

(A) Increases in FTES shall result in an increase in revenues in the year of the increase and at the statewide average rate per FTES.

(B) Decreases in FTES shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the full amount of the statewide average per FTES.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per FTES.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in FTES.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decreases in FTES during the three years following the initial year of decreases in FTES if there is a subsequent increase in FTES.

(3) For student services, the workload measure shall be based on the numbers of credit students enrolled (headcount).

Changes in headcount shall result in adjustments to revenues as follows:

(A) Increases in headcount shall result in an increase in revenues in the year of the increase at the statewide average per headcount.

(B) Decreases in headcount shall result in a revenue reduction as follows:

(i) High revenue districts (those at the statewide average or higher) shall be adjusted at the full amount of the statewide average per headcount.

(ii) Low revenue districts (those below the statewide average) shall be adjusted at one-half of the district's average per headcount.

(iii) Revenue adjustments shall be made over a three-year period beginning in the year following the initial year of decrease in headcount.

(C) Districts shall be entitled to restore any reductions in apportionment revenue due to decrease in headcount during the three years following the initial year of decrease in headcount if there is a subsequent increase in headcount.

(4) For maintenance and operations, the workload measure shall be based on the number of square feet of owned or leased facilities. Changes in the number of square feet shall be adjusted as follows:

(A) Increases in the number of square feet shall result in an increase in revenue in the year that the increase occurs and at the average per square foot.

(B) Decreases in the number of square feet shall result in a decrease in revenue beginning July 1 of the first full year in which the square feet are no longer owned or leased and at the average rate per square foot.

(5) For institutional support, a single fixed percentage which shall apply to all districts shall be established based on the pattern from the most recent data. The percentage shall be obtained from statewide data by comparing expenditures for this category with the total revenue for all five categories.

(d) Funding standards, subject to the conditions and criteria of this section, shall be established by the board for the various categories of operation established pursuant to subdivision (b). In consultation as required by subdivision (e) of Section 70901, the board of governors shall annually request program improvement moneys to assist districts in meeting these standards.

(e) Annual revenue adjustments shall be made to reflect cost changes, using the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States as published by the United States Department of Commerce, and using the ratio for the fourth calendar quarter of the latest available year to the fourth calendar quarter of the prior year rounded up to the next hundredth.

(f) An adjustment for economies of scale for districts and colleges shall be provided.

(g) The statewide increase in workload of FTES and headcount shall be, at a minimum, the rate of change of the adult population as determined by the Department of Finance, and may be increased through the budget process to reflect such other factors as statewide priorities, the unemployment rate, and the number of students graduating from California high schools. The allocation of changes on a district-by-district basis shall be determined by the board of governors.

(h) For fiscal year 1991–92, all districts shall receive at least the amount of revenue to which they would have been entitled pursuant to Article 1 (commencing with Section 84700) of Chapter 5 of Part 50. Thereafter, allocations shall be made pursuant to this section, as implemented by the board of governors pursuant to the annual State Budget.

(i) Except as specifically provided by statute, regulations of the board of governors for determining and allocating the state general apportionment to the community colleges shall not require district governing boards to expend the allocated revenues in specified categories of operation or according to the workload measures

developed by the board of governors.

(j) As used in this section:

(1) "Criteria" means the definitions of elements of institutional practice or activity to be included in the categories of operation of community college districts.

(2) "Program improvement" means an increase in revenue which is allocated to all districts to fund standards adopted pursuant to subdivision (d). Program improvement also means an increase in revenue allocated to low revenue districts to bring them closer to the statewide average.

(3) "Standard" means the appropriate level of service in a category of operation of the community college districts.

SEC. 21.7. Section 84755 is added to the Education Code, to read:

84755. (a) The Legislature finds and declares that program-based funding, once implemented, will more adequately and accountably fund the costs of providing quality community college education. Given that program-based funding will not be implemented until fiscal year 1991–92, given that community colleges will be entering a period of major reform and incurrence of new state mandates commencing in January 1989, and given that community colleges will be entering this period of reform having lost purchasing power since the 1977–78 fiscal year, the Legislature recognizes the need to create a transitional funding mechanism for program improvement and mandate funding that can operate until program-based funding is implemented.

(b) For the purpose of improving the quality of community college educational programs and services, for the purpose of reimbursing state-mandated local program costs imposed by this act, and for the purposes of initially implementing specified reforms, the board of governors shall, from amounts appropriated for purposes of this section, allocate program improvement revenues to each district on the basis of an amount per unit of average daily attendance generated in the 1987–88 fiscal year. However, this amount shall be increased or decreased to provide for equalization in a manner determined by the Board of Governors, consistent with the provisions of Sections 84703 to 84705, inclusive.

Each community college district shall use its allocation to initially reimburse state-mandated local program costs, and then to implement specified reforms and make authorized program and service improvements as follows:

(1) Developing articulated programs provided for in Section 70 of Assembly Bill 1725 of the 1987–88 Regular Session of the Legislature with school districts and campuses of the University of California and California State University.

(2) Applying minimum qualifications to all newly hired faculty and administrators, including candidates for these positions as required by Section 87356.

(3) Developing and administering a process for waiver of minimum qualifications as required by Section 87359.

(4) Establishing and applying local hiring criteria as required by Section 87360.

(5) Establishing and applying faculty service areas and competency criteria as required by Sections 87743 to 87743.5, inclusive.

(6) Evaluating temporary employees, instituting peer review evaluation, and widely distributing evaluation procedures as required by Section 87663.

(7) Establishing and applying new processes for tenure evaluation required by Section 87610.1.

(8) Establishing and applying the tenure denial grievance procedure required by Section 87610.1.

(9) Establishing and applying a process for moving administrators into faculty positions as required by Sections 87454 to 87458, inclusive.

(10) Publishing and distributing a report on the affirmative action success rate as required by Section 87102.

(11) Improving instruction by reducing the ratio of full-time equivalent students to full-time equivalent instructors.

(12) Improving instruction by increasing the hiring of full-time instructors and limiting the practice of hiring part-time instructors.

(13) Augmenting budgets for college libraries and learning resources.

(14) Augmenting budgets for plant maintenance and operations.

(15) Adding new courses or programs to serve community need.

(16) Making progress towards affirmative action goals and timetables established by the district.

(17) Developing and maintaining programs and services authorized by Section 78212.5.

(18) Augmenting budgets for student services in the areas of greatest need.

(19) Providing for release time for faculty and staff as deemed appropriate by community college district governing boards, to enable faculty and staff participation in implementing reforms.

(c) Except as provided by Section 87482.6, and except as necessary to reimburse the costs of new state mandates, district governing boards shall have full authority to expend program improvement allocations for any or all of the authorized purposes specified in subdivision (b).

(d) As required by the board of governors, the governing board of each community college district shall submit to the board of governors a plan for using the resources allocated pursuant to this section. The board of governors shall review each plan to ensure that proposed expenditures are consistent with the listing of authorized expenditures provided in this section, and the board of governors shall approve all plans to the full extent that expenditures are authorized by this section. To the extent that a community college district expends its program improvement allocation consistent with its plan, the board of governors shall include the district's allocation as part of the district's base budget for subsequent years.

(e) The board of governors, through the annual systemwide budget submitted pursuant to paragraph (5) of subdivision (b) of Section 70901, shall request necessary resources for the purposes of this section. It is the intent of the Legislature that the appropriation and allocation of program improvement money not otherwise provided pursuant to subdivision (b) of this section shall be accomplished through the annual state budget process beginning with the 1989–90 fiscal year. After June 30, 1991, if Section 84750 is implemented, it is the intent of the Legislature to fund the ongoing operations of community college districts pursuant to the provisions of Section 84750.

SEC. 22. Section 87001 is added to the Education Code, to read:

87001. The board of governors shall adopt regulations defining positions subject to minimum qualifications as set forth in subdivisions (a), (b), and (c). Unless and until amended pursuant to Section 87357, the regulations shall initially establish the definitions as the following:

(a) "Administrator" means any person employed by the governing board of a community college district in a supervisory or management position as defined in Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code.

(b) "Instructional or student services administrator" means an administrator who is employed in a position designated by the governing board of the district as having direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services program of the college or district. Instructional and student services administrators include, but are not limited to, chancellors, presidents, and instructional or student services managers.

(c) "Faculty" means those employees of a community college district who are employed in positions that are not designed as supervisory or management for the purposes of Article 5 (commencing with Section 3540) of Chapter 10.7 of Division 4 of Title 1 of the Government Code and for which minimum qualifications for hire have been specified in the regulations of the board of governors adopted pursuant to subdivision (a) of Section 87356. Faculty include, but are not limited to, instructors, librarians, counselors, community college health services professionals, handicapped student programs and services professionals, extended opportunity programs and services professionals, and individuals employed to perform a service that, before July 1, 1990, required nonsupervisorial, nonmanagement certification qualifications.

SEC. 23. Section 87102 of the Education Code is amended to read:

87102. (a) The governing board of each community college district shall periodically submit, to the Board of Governors of the California Community Colleges an affirmation of compliance with the provisions of this article. The affirmative action employment program shall have goals that ensure participation in, and

commitment to, the program by district personnel, and timetables, for its implementation. The affirmative action plan shall include steps that the district will take in meeting and improving hiring goals for both full-time faculty and part-time faculty pursuant to Section 87482.6, and the development of the plan shall be a condition for receipt of allowances pursuant to that section.

The governing board of each community college district shall be held accountable pursuant to this article and other applicable provisions of law for the success or failure of its affirmative action employment program. The plans shall be a public record within the meaning of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(b) The governing board of each community college district shall publish and distribute a record of the success rate of measurable progress, with respect to its goals and timetables, in hiring employees through its affirmative action employment program. This publication shall be a public record within the meaning of the California Public Records Act, and shall include data and information specified by the board of governors.

SEC. 24. Section 87104 of the Education Code is amended to read:

87104. (a) The Board of Governors of the California Community Colleges, out of funds appropriated for these purposes, (1) shall provide assistance to local community colleges in adopting and maintaining high-quality affirmative action programs; (2) report to the Legislature regarding the number of districts which have adopted and are maintaining affirmative action programs, including the effectiveness of the programs in meeting the intent of this article; (3) develop and disseminate to public community college districts guidelines to assist these agencies in developing and implementing affirmative action employment programs; and (4) shall establish a technical assistance team to review the affirmative action plan of each community college district which fails to make measurable progress in meeting the goals and timetables of its adopted plan. The technical assistance team shall recommend appropriate actions to assure reasonable progress in improving success rates. The board of governors shall prescribe those conditions necessary to assure reasonable progress and otherwise meet the legal requirements of affirmative action. The conditions may include the withholding of allowances made pursuant to Sections 87482.6 and 87107.

(b) The board of governors shall establish, by July 1, 1989, within the chancellor's office or through other means as deemed necessary, a major service function to assist community college districts in identifying, locating, and recruiting qualified members of underrepresented groups, and in establishing and maintaining effective affirmative action hiring procedures.

(c) The board of governors shall, by March 15, 1989, develop and adopt a systemwide plan for strengthening faculty and staff affirmative action policies and programs in the California

Community Colleges.

SEC. 25. Section 87107 is added to the Education Code, to read:

87107. (a) There is hereby created in the State Treasury a fund which shall be known as the Faculty and Staff Diversity Fund. The money in the fund shall be available to the board of governors upon appropriation by the Legislature for the purpose of enabling the California Community Colleges as a system to address the goal that by the year 2005 the system's work force will reflect proportionately the adult population of the state. For the purpose of administering this fund, the board of governors shall develop and apply availability data and factors for measuring district progress in contributing to this goal for the system. Also for the purpose of administering this fund, it is the intent of the Legislature that the board of governors take the steps which are necessary to reach the goal that by fiscal year 1992–93, 30 percent of all new hires in the California Community Colleges as a system will be ethnic minorities.

(b) By December 1, 1993, the board of governors shall report upon and assess the extent to which the California Community Colleges as a system have met or begun to meet the goals specified in this section. The report shall include conclusions regarding any necessary revisions to these goals. Unless provided otherwise by the Legislature by statute, the board of governors may, on or after September 30, 1994, adopt regulations to revise these goals.

(c) The board of governors shall utilize up to 25 percent of the fund to do all of the following:

(1) Reimburse districts for the costs of publishing, distributing, and reporting affirmative action success rates as provided in Section 87102.

(2) Reimburse districts for the cost of preparing and updating affirmative action plans.

(3) Carry out the assistance, service, monitoring, and compliance functions specified in Section 87104.

(d) The remainder of the fund shall be allocated to districts, in accordance with regulations of the board of governors, to provide for extended outreach and recruitment of underrepresented groups, for incentives to hire members of underrepresented groups, for in-service training and for other related staff diversity programs.

(e) It is the intent of the Legislature that the board of governors, in administering this fund, shall, pursuant to the provisions of this article, give funding priority and shall afford flexibility and discretion in the use of these funds to districts which have made or are making reasonable progress in contributing to the achievement of the goals of this fund.

SEC. 26. Article 5 (commencing with Section 87150) is added to Chapter 1 of Part 51 of the Education Code, to read:

Article 5. Community College Faculty and Staff Development Fund

87150. There is hereby created in the State Treasury the Community College Faculty and Staff Development Fund, to be administered by the Board of Governors of the California Community Colleges, the purpose of which is to provide state general funds to community colleges for supporting locally developed and implemented faculty and staff development programs.

87151. The Board of Governors of the California Community Colleges shall annually allocate funds appropriated for the purposes of this article to each community college district whose chief executive officer has submitted to the chancellor an affidavit which includes:

(a) A statement that each campus within the district has an advisory committee, composed of administrators, faculty, and staff representatives, which has assisted in the assessment of the faculty and staff development needs and in the design of the plan to meet those needs.

(b) A campus human development resources plan has been completed for the current and subsequent fiscal years.

(c) A report of the actual expenditures for faculty and staff development for the preceding year.

87152. (a) The initial allocation to each district, from funds appropriated by the Legislature therefor, shall be an amount equivalent to one-half of one percent of the fiscal year revenues, as defined by Section 84700, received by the district, for the 1987–88 fiscal year.

(b) In subsequent fiscal years, no district shall receive an allocation greater than 2 percent of its fiscal year revenues, as defined in Section 84700, for the prior fiscal year.

87153. The authorized uses of funds allocated under this article shall include all of the following:

(a) Improvement of teaching.

(b) Maintenance of current academic and technical knowledge and skills.

(c) In-service training for vocational education and employment preparation programs.

(d) Retraining to meet changing institutional needs.

(e) Intersegmental exchange programs.

(f) Development of innovations in instructional and administrative techniques and program effectiveness.

(g) Computer and technological proficiency programs.

(h) Courses and training implementing affirmative action and upward mobility programs.

(i) Other activities determined to be related to educational and professional development pursuant to criteria established by the Board of Governors of the California Community Colleges,

including, but not necessarily limited to, programs designed to develop self-esteem.

87154. This article shall be operative during any fiscal year only if funds are provided therefor in the annual Budget Act for that fiscal year or other legislation.

SEC. 27. Chapter 2 (commencing with Section 87200) of Part 51 of the Education Code is repealed.

SEC. 28. Chapter 2.5 (commencing with Section 87350) is added to Part 51 of the Education Code, to read:

CHAPTER 2.5. QUALIFICATIONS FOR COMMUNITY COLLEGE PERSONNEL

Article 1. General Provisions

87350. The plan for a new mechanism of faculty qualifications being developed by the Chancellor of the California Community Colleges pursuant to Chapter 1465 of the Statutes of 1986 shall include all of the following:

(a) A transition provision which would grandfather existing bargaining unit definitions.

(b) Consideration of projected California demographics.

(c) Consideration of affirmative action policies and programs.

Article 2. Minimum Qualifications and Hiring Criteria

87355. Any person employed under a credential as of June 30, 1990, including an instructor, librarian, counselor, student personnel worker, supervisor, administrator, or chief administrative officer, shall be entitled to serve under the terms of that credential until it terminates, and during the period the credential is effective, shall not be required to meet the minimum qualifications applicable after July 1, 1990. The board of governors shall adopt regulations as necessary to implement this exemption within 120 days of the effective date of this act.

87356. (a) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for hire as a community college faculty member. Unless and until amended pursuant to the process described in Section 87357, the regulations shall establish the minimum qualifications for hire as a community college faculty member teaching any credit course, as any of the following:

(1) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in the discipline of the faculty member's assignment.

(2) Possession of a master's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment and possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in the

discipline of the faculty member's assignment.

(3) For faculty assigned to teach courses in disciplines where the master's degree is not generally expected or available, which are, generally, disciplines in specialized technical, trade, or industrial fields, either of the following:

(A) Possession of a bachelor's degree from an accredited institution, or equivalent foreign degree, in a discipline reasonably related to the faculty member's assignment, plus two years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

(B) Possession of an associate degree from an accredited institution in a discipline reasonably related to the faculty member's assignment, plus six years of professional experience, plus appropriate certification to practice or licensure or its equivalent, if available.

(b) The board of governors shall adopt regulations establishing appropriate minimum qualifications for extended opportunity programs and services workers, pursuant to Section 69648.7.

(c) The board of governors shall adopt regulations establishing appropriate minimum qualifications for handicapped student programs and services workers, pursuant to Section 78440.5.

(d) The board of governors shall adopt regulations to establish and maintain the minimum qualifications for hire as an instructional or student services administrator. Unless and until amended pursuant to the process described in Section 87357, the regulations shall establish the minimum qualifications for hire as an instructional or student services administrator as all of the following:

(1) Possession of a master's degree.

(2) One year of formal training, internship, or leadership experience reasonably related to the administrator's administrative assignment, which may, but need not be, concurrent with the required full-time service.

(e) The Legislature finds and declares that this section does not create a state-mandated local program cost because compensation of faculty will continue to be determined through the collective bargaining process or meet and confer sessions.

87357. (a) In establishing and maintaining minimum qualifications pursuant to Section 87356, the board of governors shall do all of the following:

(1) With regard to minimum qualifications for faculty, consult with, and rely primarily on the advice and judgment of, the statewide Academic Senate, and with regard to minimum qualifications for instructional or student service administrators, consult with, and rely primarily on the advice and judgment of, an appropriate statewide organization of administrators. In either case, the board of governors shall provide a reasonable opportunity for comment by other statewide representative groups.

(2) The board of governors shall establish a process to review at least every three years the continued appropriateness of the

minimum qualifications, and the adequacy of the means by which they are administered. The process shall provide for the appointment of a representative group of community college faculty, administrators, students, and trustees to conduct or otherwise assist in the review, including particularly, representatives of academic senates, collective bargaining organizations, and statewide faculty associations. In addition, the group shall be broadly representative of academic and vocational programs in the curriculum from both urban and rural districts, and representative of ethnic minority communities.

(b) The board of governors, relying primarily upon the advice and judgment of the statewide Academic Senate, shall prescribe by regulation a working definition of the term "discipline" and shall prepare and maintain a list of disciplines that are "reasonably related" to one another, as that phrase is used in the minimum qualifications. The initial list shall be distributed to the community college districts by July 1, 1989, for their use in applying the minimum qualifications for hire.

In formulating advice and recommendations to the board of governors regarding the definition of the term "discipline," the statewide Academic Senate shall consult with appropriate statewide organizations representing administrators and faculty collective bargaining agents. The statewide Academic Senate shall incorporate the advice of those groups into its recommendations to the board of governors, particularly as it relates to the practical ramifications of any proposed definition of the term "discipline" on issues of reassignment, transfer, and reduction in force.

The board of governors, relying primarily upon the advice and judgment of the statewide Academic Senate, shall prepare and maintain a list of disciplines in which the master's degree is not generally expected or available. The initial list shall be distributed to the community college districts by July 1, 1989, for their use in applying the minimum qualifications for hire.

87358. The board of governors shall periodically designate a team of community college faculty, administrators, and trustees to review each community college district's application of minimum qualifications to faculty and administrators.

87359. The board of governors shall adopt regulations setting forth a process authorizing local governing boards to employ faculty members, instructional administrators, and student services administrators who do not meet the applicable minimum qualifications specified in the regulations adopted by the board pursuant to Section 87356. Unless and until amended pursuant to the process described in Section 87357, the regulations shall require all of the following:

(a) No one may be hired to serve as a community college faculty member, instructional administrator, or student services administrator under the authority granted by the regulations unless the governing board determines that he or she possesses

qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board's action employing the individual.

(b) The process, as well as criteria and standards by which the governing board reaches its determinations, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that each individual employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications specified in regulations adopted by the board of governors. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the district process in existence on January 1, 1989, shall remain in effect.

87359.5. By May 1, 1989, the board of governors shall have reviewed or contracted for review of, the job relevance of the requirements of Sections 87408, 87408.5, 87408.6, and any other physical fitness tests or examinations, and other conditions of employment, applicable to community college personnel.

Article 3. Hiring Criteria

87360. (a) In establishing hiring criteria for faculty and administrators, district governing boards shall, no later than July 1, 1990, develop criteria that include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

(b) No later than July 1, 1990, hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the academic senate, and approved by the governing board.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the existing district process in existence on January 1, 1989, shall remain in effect.

SEC. 29. Section 87454 of the Education Code is amended to read:

87454. A tenured employee, when assigned from a faculty position to an administrative position, or assigned any special or other type of work, or given special classification or designation, shall retain his or her status as a tenured faculty member.

SEC. 30. Section 87455 of the Education Code is repealed.

SEC. 31. Section 87456 of the Education Code is repealed.

SEC. 32. Section 87457 of the Education Code is amended to read:

87457. Whenever a person employed in an administrative position is assigned to a faculty position, the governing board of the community college district shall give the employee, when requested by him or her, a written statement of the reasons for the transfer.

SEC. 33. Section 87458 of the Education Code is repealed.

SEC. 34. Section 87458 is added to the Education Code, to read:

87458. A person employed in an administrative position that is not part of the classified service, who has not previously acquired tenured status as a faculty member in the same district, shall have the right to become a first year probationary faculty member once his or her administrative assignment expires or is terminated if all of the following apply:

(a) The process by which the governing board reaches the determination shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that the administrator possesses the minimum qualifications for employment as a faculty member. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(b) Until a joint agreement is reached pursuant to subdivision (a), the district process in existence on January 1, 1989, shall remain in effect.

(c) The administrator has completed at least two years of satisfactory service, including any time previously served as a faculty member, in the district.

(d) The termination of the administrative assignment is for any reason other than dismissal for cause.

SEC. 35. Section 87482.6 is added to the Education Code, to read:

87482.6. (a) Until the provisions of Section 84750 regarding program-based funding are implemented by a standard adopted by the board of governors that establishes the appropriate percentage of hours of credit instruction that should be taught by full-time instructors, the Legislature wishes to recognize and make efforts to address longstanding policy of the board of governors that at least 75 percent of the hours of credit instruction in the California Community Colleges, as a system, should be taught by full-time instructors. To this end, community college districts which have less than 75 percent of their hours of credit instruction taught by full-time instructors shall apply a portion of the program improvement allocation received pursuant to Section 84755 as follows:

(1) Districts which, in the prior fiscal year, had between 67 percent and 75 percent of their hours of credit instruction taught by full-time instructors shall apply up to 33 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 33 percent of the district's program improvement allocation.

(2) Districts which, in the prior fiscal year, had less than 67 percent of their hours of credit instruction taught by full-time instructors shall apply up to 40 percent of their program improvement allocation as necessary to reach the 75 percent standard. If a district in this category chooses instead not to improve its percentage, the board of governors shall withhold 40 percent of the district's program improvement allocation.

Districts which maintain 75 percent or more of their hours of credit instruction taught by full-time instructors shall otherwise be free to use their program improvement allocation for any of the purposes specified in Section 84755.

(b) The board of governors shall adopt regulations for the effective administration of this section. Unless and until amended by the board of governors, the regulations shall provide as follows:

(1) In computing the percentage of hours of credit instruction taught by full-time instructors, the hours of overload teaching by full-time instructors shall be excluded from both the total hours of credit instruction taught by full-time and part-time instructors and the total hours of instruction taught by full-time instructors.

(2) A full-time instructor shall be defined as any regular and contract faculty member teaching credit instruction.

(3) The chancellor shall compute and report to each community college district the number of full-time faculty (FTF) which are to be secured through the use of the prescribed portion of program improvement revenue allocated to each district. This computation shall be made by dividing the applicable portion of program improvement revenue (0 percent, 33 percent, or 40 percent of the program improvement allocation), by the statewide average "replacement cost" (a figure which represents the statewide average faculty salary plus benefits, minus the statewide average hourly rate of compensation for part-time instructors times the statewide average full-time teaching load). If the quotient is not a whole number, then the quotient shall be rounded down to the nearest whole number. If this quotient, once applied, will result in the district exceeding the 75 percent standard, the chancellor shall further reduce the quotient to a whole number that will leave the district as close as possible to, but in excess of, the 75 percent standard.

By March 15th of each year, the chancellor shall report to each district an estimate of the number of FTF to be secured based upon the appropriation of revenues contained in the annual Budget Bill.

(4) On or before December 31, 1991, the chancellor shall

determine the extent to which each district, by September 30, 1991, has hired the number of FTF determined pursuant to paragraph (3) for the 1989–90 and 1990–91 fiscal years. To the extent that the cumulative number of FTF have not been retained, the chancellor shall reduce the district's base budget for 1991–92 and subsequent fiscal years by an amount equivalent to the average replacement cost times the deficiency in the number of FTF.

SEC. 36. Section 87602 of the Education Code is amended to read:

87602. For the purposes of other provisions of law:

(a) A contract employee is a probationary employee.

(b) A regular or tenured employee is a permanent employee.

SEC. 37. Section 87605 of the Education Code is repealed.

SEC. 38. Section 87605 is added to the Education Code, to read:

87605. The governing board of a district shall employ faculty for the first academic year of his or her employment by contract. Any person who, at the time an employment contract is offered to him or her by the district, is neither a tenured employee of the district nor a probationary employee then serving under a second or third contract entered into pursuant to Section 87608 shall be deemed to be employed for "the first academic year of his or her employment." A faculty member shall be deemed to have completed his or her first contract year if he or she provides service for 75 percent of the first academic year.

SEC. 39. Section 87608 of the Education Code is repealed.

SEC. 40. Section 87608 is added to the Education Code, to read:

87608. If a contract employee is working under his or her first contract, the governing board, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

(a) Not enter into a contract for the following academic year.

(b) Enter into a contract for the following academic year.

(c) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 41. Section 87608.5 is added to the Education Code, to read:

87608.5. If a contract employee is working under his or her second contract, the governing board, at its discretion and not subject to judicial review except as expressly provided in Sections 87610.1 and 87611, shall elect one of the following alternatives:

(a) Not enter into a contract for the following academic year.

(b) Enter into a contract for the following two academic years.

(c) Employ the contract employee as a regular employee for all subsequent academic years.

SEC. 42. Section 87609 of the Education Code is repealed.

SEC. 43. Section 87609 is added to the Education Code, to read:

87609. If a contract employee is employed under his or her third consecutive contract entered into pursuant to Section 87608.5, the governing board shall elect one of the following alternatives:

(a) Employ the probationary employee as a tenured employee for all subsequent academic years.

(b) Not employ the probationary employee as a tenured employee.

SEC. 44. Section 87610 of the Education Code is repealed.

SEC. 45. Section 87610 is added to the Education Code, to read:

87610. (a) The governing board shall give written notice of its decision under Section 87608 or 87608.5 and the reasons therefor to the employee on or before March 15 of the academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her first or second contract shall be deemed an extension of the existing contract without change for the following academic year.

(b) The governing board shall give written notice of its decision under Section 87609 and the reasons therefor to the employee on or before March 15 of the last academic year covered by the existing contract. The notice shall be by registered or certified mail to the most recent address on file with the district personnel office. Failure to give the notice as required to a contract employee under his or her third consecutive contract shall be deemed a decision to employ him or her as a regular employee for all subsequent academic years.

SEC. 46. Section 87610.1 is added to the Education Code, to read:

87610.1. (a) In those districts where tenure evaluation procedures are collectively bargained pursuant to Section 3543 of the Government Code, the faculty's exclusive representative shall consult with the academic senate prior to engaging in collective bargaining on these procedures.

(b) Allegations that the community college district, in a decision to grant tenure, made a negative decision that to a reasonable person was unreasonable, or violated, misinterpreted, or misapplied, any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. Allegations that the community college district in a decision to reappoint a probationary employee violated, misinterpreted, or misapplied any of its policies and procedures concerning the evaluation of probationary employees shall be classified and procedurally addressed as grievances. If there is no contractual grievance procedure resulting in arbitration, these allegations shall proceed to hearing in accordance with Section 87740.

Arbitration as used in this section refers to advisory arbitration, as well as final and binding arbitration.

(c) Any grievance brought pursuant to the provisions of subdivision (b) may be filed by an employee on his or her behalf, or by the exclusive bargaining representative on behalf of an employee or a group of employees in accordance with Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code. The exclusive representative shall have no duty of fair representation with respect to taking any of these grievances

to arbitration, and the employee shall be entitled to pursue a matter to arbitration with or without the representation by the exclusive representative. However, if a case proceeds to arbitration with respresentation by the exclusive representative, the resulting decision shall not be considered a precedent for purposes of interpreting tenure procedures and policies, or the collective bargaining agreement, but instead shall affect only the result in that particular case. When arbitrations are not initiated by the exclusive representative, the district shall require the employee submitting the grievance to file with the arbitrator or another appropriate party designated in the collective bargaining agreement, adequate security to pay the employee's share of the cost of arbitration.

(d) The arbitrator shall be without power to grant tenure, except for failure to give notice on or before March 15 pursuant to subdivision (b) of Section 87610. The arbitrator may issue an appropriate make-whole remedy, which may include, but need not be limited to, back pay and benefits, reemployment in a probationary position, and reconsideration. Procedures for reconsideration of decisions not to grant tenure shall be agreed to by the governing board and the exclusive representative of faculty pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(e) Any employees who are primarily engaged in faculty or other bargaining unit duties, who perform "supervisory" or "management" duties incidental to their performance of primary professional duties shall not be deemed supervisory or managerial employees as those terms are defined in Section 3540.1 of the Government Code, because of those duties. These duties include, but are not limited to, serving on hiring, selection, promotion, evaluation, budget development, and affirmative action committees, and making effective recommendations in connection with these activities. These employees whose duties are substantially similar to those of their fellow bargaining unit members shall not be considered supervisory or management employees.

SEC. 47. Section 87611 of the Education Code is repealed.

SEC. 48. Section 87611 is added to the Education Code, to read:

87611. A final decision reached following a grievance or hearing conducted pursuant to subdivision (b) of Section 87610.1 shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

SEC. 49. Section 87615 is added to the Education Code, to read:

87615. Commencing July 1, 1990, the minimum degree requirement for tenure as a community college faculty member shall be a bachelor's degree or equivalent from an accredited institution, or an equivalent foreign degree, as determined by the board of governors, except that in the case of vocational faculty, this requirement shall commence January 1, 1994. The board of governors shall monitor the effects and anticipated effects of this provision upon hiring practices within the districts, analyze the

results, and make a report and recommendation to the Legislature no later than January 1, 1993.

The governing board may grant tenure to faculty members who do not meet the minimum degree requirement for tenure specified in this section if both of the following are met:

(a) The governing board determines that rare and compelling reasons exist justifying the action. The reasons for the governing board's determination shall be reflected in its action granting tenure to the individual.

(b) The process by which the governing board reaches the determination has been developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that rare and compelling reasons exist to grant tenure. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination; and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached pursuant to subdivision (b), the district process in existence on January 1, 1989, shall remain in effect.

SEC. 51. Section 87663 of the Education Code is amended to read:

87663. (a) Contract employees shall be evaluated at least once in each academic year. Regular employees shall be evaluated at least once in every three academic years. Temporary employees shall be evaluated within the first year of employment. Thereafter, evaluation shall be at least once every six regular semesters, or once every nine regular quarters, as applicable.

(b) Whenever an evaluation is required of a certificated employee by a community college district, the evaluation shall be conducted in accordance with the standards and procedures established by the rules and regulations of the governing board of the employing district.

(c) Evaluations shall include, but not be limited to, a peer review process.

(d) The peer review process shall be on a departmental or divisional basis, and shall address the forthcoming demographics of California, and the principles of affirmative action. The process shall require that the peers reviewing are both representative of the diversity of California and sensitive to affirmative action concerns, all without compromising quality and excellence in teaching.

(e) The Legislature recognizes that faculty evaluation procedures may be negotiated as part of the collective bargaining process.

(f) In those districts where faculty evaluation procedures are collectively bargained, the faculty's exclusive representative shall

consult with the academic senate prior to engaging in collective bargaining regarding those procedures.

(g) It is the intent of the Legislature that faculty evaluation include, to the extent practicable, student evaluation.

(h) A probationary faculty member shall be accorded the right to be evaluated under clear, fair, and equitable evaluation procedures locally defined through the collective bargaining process where the faculty has chosen to elect an exclusive representative. Those procedures shall ensure good-faith treatment of the probationary faculty member without according him or her de facto tenure rights.

(i) Governing boards shall establish and disseminate written evaluation procedures for administrators. It is the intent of the Legislature that evaluation of administrators include, to the extent possible, faculty evaluation.

SEC. 51.5. Section 87743 of the Education Code is amended to read:

87743. No tenured employee shall be deprived of his or her position for causes other than those specified in Sections 87453, 87467, and 87484, and Sections 87732 to 87739, inclusive, and no probationary employee shall be deprived of his or her position for cause other than as specified in Section 87740 except in accordance with the provisions of Section 87463 and Sections 87743 to 87762, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of the district it shall have become necessary by reason of either of these conditions to decrease the number of tenured employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the employees of the district, tenured as well as probationary, at the close of the school year. However, the services of no tenured employee may be terminated under this section while any probationary employee, or any other employee with less seniority, is retained to render a service in a faculty service area in which the records of the district maintained pursuant to Section 87743.4 reflect that the tenured employee possesses the minimum qualifications prescribed by the board of governors and is competent to serve under district competency criteria.

Notice of the termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 87740 and services of the employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with Sections 87413 and 87414. In the event that a tenured or probationary employee is not

given the notices and a right to a hearing as provided for in Section 87740, he or she shall be deemed reemployed for the ensuing school year.

The board shall make assignments and reassignments in a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

SEC. 52. Section 87743.1 is added to the Education Code, to read:

87743.1. As used in this chapter, "faculty service area" means a service or instructional subject area or group of related services or instructional subject areas performed by faculty and established by a community college district.

SEC. 53. Section 87743.2 is added to the Education Code, to read:

87743.2. Not later than July 1, 1990, each community college district shall establish faculty service areas. The establishment of faculty service areas shall be within the scope of meeting and negotiating pursuant to Section 3543.2 of the Government Code. The exclusive representative shall consult with the academic senate in developing its proposals.

SEC. 54. Section 87743.3 is added to the Education Code, to read:

87743.3. Each faculty member shall qualify for one or more faculty service areas at the time of initial employment. A faculty member shall be eligible for qualification in any faculty service area in which the faculty member has met both minimum qualifications pursuant to Section 87356 and district competency standards. After initial employment, a faculty member may apply to the district to add faculty service areas for which the faculty member qualifies. The application shall be received by the district on or before February 15 in order to be considered in any proceeding pursuant to Section 87743 during the academic year in which the application is received. Any dispute arising from an allegation that a faculty member has been improperly denied a faculty service area shall be classified and procedurally addressed as a grievance. If the district has no grievance procedure, fair and equitable procedures for the resolution of the disputes shall be developed by the academic senate and representatives of the governing board.

SEC. 55. Section 87743.4 is added to the Education Code, to read:

87743.4. Each district shall maintain a permanent record for each faculty member employed by the district of each faculty service area for which the faculty member possesses the minimum qualifications for service and in which he or she has established competency pursuant to district competency standards. The record shall be contained in the faculty member's personnel file.

SEC. 56. Section 87743.5 is added to the Education Code, to read:

87743.5. To determine competency to serve in a faculty service area for the purposes of Section 87743, each community college district shall, not later than July 1, 1990, establish competency criteria for faculty members employed by the district. The development and establishment of such competency criteria shall be within the scope of meeting and negotiating pursuant to Section 3543 of the

Government Code.

SEC. 57. The Board of Governors of the California Community Colleges shall conduct a thorough review of all statutes affecting the administration and operation of the California Community Colleges, and recommend to the Legislature the amendment or repeal of those provisions affected by this act. The review shall be submitted to the Legislature no later than January 31, 1989.

SEC. 58. The Board of Governors of the California Community Colleges shall review the Education Employment Relations Act, Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, with regard to the delineation of roles and responsibilities of the academic senate and the faculty bargaining agents, especially in light of proposed changes in the role of faculty concerning hiring, peer review and evaluation, and curricular design. The results of this review including the recommendations of the board of governors shall be submitted to the Legislature no later than January 1, 1993. The board of governors shall convene a committee, for the purpose of conducting the review. The committee shall include representatives from faculty and employee groups, collective bargaining organizations, and academic senates.

This section shall become operative only if funds are specifically appropriated to the board of governors for purposes of this section.

SEC. 59. The California Postsecondary Education Commission and the State Department of Education shall jointly agree on a coordinated research framework to be utilized by each agency in a review of the programs in English as a second language offered through the California Community Colleges, the University of California, the California State University, and adult education programs, and of the future educational needs in this area, and to report its recommendations for programs of effective cooperation between those institutions in this respect. The California Postsecondary Education Commission shall have responsibility for reviewing the programs of the postsecondary segments and the State Department of Education shall have responsibility for reviewing the programs offered by school districts. Both the commission and the State Department of Education shall report the results of their review to the Legislature no later than January 1, 1990. The purpose of the study provided for under this section shall be to assess the ongoing role of the California Community Colleges, in relation to the respective roles of the University of California and the California State University in conducting programs in English as a second language.

This section shall become operative only if funds are specifically appropriated for the purposes of conducting the work specified in this section.

SEC. 60. The Chancellor of the California Community Colleges shall conduct a study, with the participation of one or more community college districts, on the feasibility of establishing, on a

pilot basis, "interdisciplinary colleges" within selected community colleges—with a special concern with the integration of vocational and academic study. The study shall include exploration of the possibilities, through the establishment of these colleges, of the integration of work experience and study, and the provision of a more cooperative learning environment as a model for all colleges. On or before January 1, 1990, the chancellor shall submit to the Legislature a report summarizing the findings and recommendations which result from the study conducted pursuant to this section.

This section shall become operative only if funds are specifically appropriated for the purposes of this section.

SEC. 61. The Board of Governors of the California Community Colleges shall, by January 1, 1990, do all of the following:

(a) Develop policies and guidelines for strengthening the role of the academic senate with regard to the determination and administration of academic and professional standards, course approval and curricula, and other academic matters.

(b) In cooperation with community college district and student representatives, develop a plan for encouraging greater student participation in appropriate aspects of campus, district, and statewide governance.

SEC. 62. The Student Aid Commission shall conduct a study of student aid programs which have as their purpose increasing the number of students entering into the teaching profession at the community college level, and shall report the results of this study to the Legislature and to the California Postsecondary Education Commission on or before January 1, 1990. Prior to March 15, 1990, the California Postsecondary Education Commission shall review and comment on this report to the Legislature, and shall propose any recommendations for revisions to improve these programs.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 63. The Board of Governors of the California Community Colleges, on or before January 1, 1990, shall provide ongoing information to community college districts relative to the design and operation of vocational education programs. This information shall include, but is not necessarily limited to, summaries and analyses of current economic trends and employment projections, as indicated by industry groups and other sources, and the curriculum implications of that data.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 64. The Board of Governors of the California Community Colleges and the State Board of Education shall each determine the extent to which students are underrepresented in vocational education programs in the community colleges and in public schools, respectively, on the basis of gender or ethnic origin, and shall jointly undertake to encourage students to enter those vocational education

programs in which they are underrepresented. On or before July 1, 1990, the Board of Governors of the California Community Colleges and the State Board of Education jointly shall file a report with the education policy committees of the Legislature on their findings.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 65. (a) The Board of Governors of the California Community Colleges shall develop a pilot program regarding the employment of part-time temporary faculty by option-rollover contracts in selected areas of specialization. The board of governors shall select three community college districts to implement the two-year pilot program. Community college districts eligible to participate in this pilot program shall be those whose proposal for participation has the concurrence of the local exclusive bargaining representative. In districts having no exclusive bargaining representative, the plan must have the concurrence of the local academic senate.

(b) The community college districts participating in the pilot program established pursuant to subdivision (a) shall employ part-time temporary faculty for a duration of two years under an option-rollover contract. At the end of the two-year period, the community college district shall have, under the pilot program, the option of retaining the part-time temporary employee by rolling over the contract an additional two years.

(c) The pilot program shall be reviewed by the full-time faculty, the part-time temporary employees participating in the pilot program, and the students of the community college district.

(d) Upon the completion of the pilot program, the board of governors shall evaluate the review conducted pursuant to subdivision (c) and shall determine whether the pilot program regarding the employment of part-time temporary faculty under option-rollover contracts is beneficial to the community college and its students.

(e) If the pilot program is deemed to be beneficial to the community college and its students, the board of governors, in consultation with the faculty, shall establish policy directed at, and shall develop standards for, employing part-time temporary faculty under option-rollover contracts for periods ranging from two to five years. At the conclusion of the contractual period, the employing community college district shall have the option of retaining the employee for a period equal to the duration of the original contract by rolling over the contract for the stated period.

(f) It is the intent of the Legislature that the development of option-rollover contracts for part-time temporary employees not frustrate the policy of the community colleges to strengthen the core of their full-time faculty, including the recruitment and hiring of full-time faculty members.

(g) The board of governors shall develop standards requiring part-time temporary employees who have contractual status under

an option-rollover contract to participate in student advisement and curriculum-related development, in addition to classroom instruction. Part-time temporary employees shall be compensated according to these standards.

This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 66. (a) The governing board of each district may determine whether it would be beneficial for various community college departments to enter into agreements with the analogous graduate department at the University of California or California State University campus closest in proximity to the community college, to provide part-time temporary teaching positions in the district for advanced university graduate students.

(b) In determining whether the development of part-time temporary teaching positions would be beneficial for the district, the governing board shall consider that the part-time temporary teaching positions, if implemented, would be limited to the following individuals:

(1) Advanced graduate students with prior proven teaching experience.

(2) Advanced graduate students teaching in areas consistent with the subject area of their graduate program.

(3) Advanced graduate students who qualify for employment in positions requiring certification.

(4) Advanced graduate students selected by the pertinent community college department and administrators from among a list of candidates provided by the University of California or the California State University graduate department.

(c) The governing board shall also consider whether the following intended purposes would be served by the development of part-time temporary teaching positions:

(1) Be a form of financial aid to the graduate students, especially for minority and disadvantaged students.

(2) Provide access to graduate students who wish to enter into the teaching profession at the community college level.

(3) Guarantee community college departments one or two part-time positions each year.

(d) In the event that part-time temporary teaching positions are established, graduate students who would teach on a temporary part-time basis shall not displace persons then currently teaching part-time or full-time.

SEC. 67. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates

Claims Fund.

SEC. 68. On or before January 1, 1990, the Board of Governors of the California Community Colleges shall adopt regulations which substantially incorporate the following policy:

No more than 30 semester units, or 45 quarter units, in course credit may be assigned to any student for remedial coursework, except as to any student who is enrolled in one or more courses in English as a second language or who is identified as having a learning disability. This limit may be waived by the community college district pursuant to regulations of the board of governors, based upon the student's showing of significant, measurable progress toward the development of skills appropriate to his or her enrollment in college level courses. Students needing remedial instruction beyond the course credit restrictions set forth in this section shall be referred to appropriate noncredit adult basic education programs conducted by the community college or an adult school, or to appropriate community services.

The board of governors shall examine and review the effects of the limit under this regulation on the students taking remedial courses, including their success rates, attrition rates, and movement into other programs of study or employment. The review shall include an analysis of the composition by ethnicity and gender of the students reaching this limit, as well as a review of district efforts to use faculty and support service personnel to promote the success rate of students in remedial courses. A report concerning this review shall be delivered to the education policy committees of the Senate and Assembly on or before December 31, 1991.

SEC. 69. Pursuant to paragraph (8) of subdivision (b) of Section 70901 of the Education Code:

(a) The board of governors and the State Board of Education shall jointly assist school districts and community college districts in the development and maintenance of articulated programs that coordinate vocational education over the final two years in high school and two years in community college to effectively meet student and employer needs.

(b) The Board of Governors of the California Community Colleges and the Trustees of the California State University, shall jointly develop and maintain articulated programs that expand upon the articulated programs developed pursuant to subdivision (a) to include the attainment of the baccalaureate degree where appropriate. These programs shall provide for the transfer of students in vocational education programs in community colleges to the California State University.

(c) Plans for the implementation of these programs shall be completed by July 1, 1991.

(d) This section shall become operative only if funds are specifically appropriated for purposes of this section.

SEC. 70. (a) The Legislature finds and declares that the reforms enacted through this act form a mutually dependent and related set

of provisions. While some few provisions could be enacted independently, other sections of this act depend upon adequate support for the programs of the community colleges. There is a direct linkage between those sections of this act which constitute the further professionalization of the faculty and the moneys required to enhance the programs of the community colleges for "transitional program improvement," as specified in Section 84755 of the Education Code.

For instance, the elimination of credentials must be accompanied by the establishment of minimum qualifications by the board of governors. Minimum qualifications in turn must be implemented by districts through the establishment of faculty service areas, competency criteria, and various waiver processes. The extension of the tenure probationary period to four years as well as the revisions to layoff procedures also depend upon the establishment of tenure denial grievance processes as well as the establishment of faculty service areas and competency criteria. Similarly, because so many of the reforms call for faculty involvement in the determination and implementation of policy, and because the quality, quantity, and composition of full-time faculty have the most immediate and direct impact on the quality of instruction, overall reform cannot succeed without sufficient members of full-time faculty with sufficient opportunities for continued staff development, and with sufficient opportunity for participation in institutional governance.

The Legislature further finds that, absent resources to reimburse the state-mandated costs of this act, new full-time faculty to replace part-time faculty, and expanded programs for staff development, the viability or success, or both, of many of the reforms in this act will be jeopardized. The Legislature recognizes that due to unanticipated fiscal conditions the State cannot immediately fund all of the reforms contained in this act. The Legislature also recognizes, however, that if minimal funding is not soon provided that it would be inappropriate to proceed with many reforms.

(b) The Legislature finds and declares that the California Community Colleges are entering a period of major reform, but require further assistance in regaining prior purchasing power in order to fully carry out major reforms. The Legislature intends that the reform process be phased in over a reasonable and logical period of time, and that the institution of major reform be based upon the community colleges' ability to deliver enhanced quality in their programs. Pursuant to this act, the Legislature finds and declares that the transitional stage of reform process shall consist of two phases:

(1) "Phase I of transitional program improvement," as used in this section, means a period of reform during which community college programs are improved and enhanced to prepare an appropriate environment for the subsequent professionalization of faculty. In this connection, the Legislature finds and declares that it would be an unsound and wasteful policy to expend moneys to professionalize faculty without first making the program changes necessary to

enable that faculty to assume a more effective role in the educational process. It is the intent of the Legislature that those changes, combined in proper sequence with the professional improvement of faculty, will improve the overall quality of education within the system. It is the intent of the Legislature that moneys appropriated during Phase I fully fund any state-mandates created pursuant to this section.

(2) "Phase II of transitional program improvement" means a period of reform following initial program improvement and professionalization of faculty. During that period, the new educational environment created under Phase I, including such reforms as innovative training programs, evaluation procedures, and minimum qualifications, may be utilized to the fullest extent in hiring new full-time faculty. The Legislature finds that this latter step is a major component of successful reform and the eventual attainment of the highest possible quality in the educational programs of the California Community Colleges. It is the intent of the Legislature that moneys appropriated during Phase II fully fund any state-mandate created pursuant to this section.

(c) The Legislature finds and declares that the provisions of subdivisions (d) and (e) address an essential policy issue at the core of the system created by this act. The reforms with delayed operative dates pursuant to subdivisions (d) and (e) will be fiscally and substantively meaningful only if other enumerated reforms, on which the reforms with delayed operative dates depend, are adequately funded as an initial step in the process of improving the structure and quality of the California Community Colleges.

(d) Sections 27 to 34, inclusive, and Sections 51 to 56, inclusive, of this act shall be implemented by the board of governors and be mandatory with regard to implementation by community college districts only if the board of governors certifies in writing to the Governor and to the Legislature that adequate funding has been provided for Phase I of transitional program improvement and for any applicable state mandates, as authorized in Section 84755 of the Education Code. If the board of governors so certifies, each of these sections shall be implemented on the date of certification, or upon any operative date specified for the particular section in this act, whichever is later. For purposes of this subdivision, "adequate funding" means those moneys required to provide an increased quality of instruction and programs, and to carry out applicable mandates of this act, within the California Community Colleges. Based upon estimates provided by the board of governors and exhaustive review of the community colleges' operations by the Joint Committee for the Review of the Master Plan for Higher Education, the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000).

(e) Sections 21, and 36 to 49, inclusive, of this act shall be implemented by the board of governors and be mandatory with regard to implementation by community college districts only if the

board of governors certifies in writing to the Governor and to the Legislature that adequate funding has been provided for Phase II of transitional program improvement and for any applicable state mandates, as authorized in Section 84755. If the board of governors so certifies, each of these sections shall be implemented on the date of certification, or upon any operative date specified for the particular section in this act, whichever is later. For purposes of this subdivision, "adequate funding" means those moneys required to provide an increased quality of instruction and programs, and to carry out applicable state mandates of this act, within the California Community Colleges. Based upon estimates provided by the board of governors and exhaustive review of the community colleges' operations by the Joint Committee for the Review of the Master Plan for Higher Education, the Legislature finds and declares that its estimate of this funding amount is seventy million dollars ($70,000,000), in addition to the seventy million dollars ($70,000,000) estimated under subdivision (d).

(f) Notwithstanding this section, the board of governors, commencing January 1, 1989, may develop criteria and standards, as may be necessary to prepare for implementation of Section 84750 of the Education Code. However, the board of governors may not implement that section until the terms of this section have been met.

SEC. 71. Section 70901.5 of the Education Code, as added by Section 8 of this act, shall become operative on January 1, 1990.

SEC. 72. The sum of seven million two hundred fifty thousand dollars ($7,250,000) is hereby appropriated from the General Fund to the Board of Governors of the California Community Colleges for expenditure pursuant to this act in the 1988–89 fiscal year in accordance with the following schedule:

(a) For expenditure pursuant to Article 5 (commencing with Section 87150) of Chapter 1 of Part 51 of the Education Code. Notwithstanding subdivision (a) of Section 87152, the board of governors shall allocate these funds to community college districts on a per average daily attendance (ADA) basis, using the funded ADA levels for the 1987–88 fiscal year, so that seven dollars ($7) per ADA, or as near thereto as possible, is allocated, and so that each district receives at least five thousand dollars ($5,000). Before computing the per ADA amount the board of governors may set aside up to 2 percent of the allocation of this subdivision for statewide administration $5,000,000

(b) For expenditure pursuant to Section 87107 of the Education Code $1,000,000

(c) For purposes of the administration of this act, including the administration of Section 84755 of

the Education Code, the adoption of regulations as required by Sections 70901.5, 87356, 87359, 87107, and 87482.6 of the Education Code and Section 69 of this act, the development of a list of disciplines, as required by Section 87357 of the Education Code, and the review required by Section 87359.5 of the Education Code $300,000

(d) For purposes of commencing implementation of Section 84750 of the Education Code, during the period of January 1, 1989, through June 30, 1990 ..... $300,000

(e) For purposes of subdivision (b) of Section 87104 of the Education Code $300,000

(f) For purposes of Section 71020.5 of the Education Code $150,000

(g) To the Community College Fund for instructional improvement pursuant to Section 84381 of the Education Code $200,000

CHAPTER 974

An act to amend and supplement Section 2.00 of the Budget Act of 1988 by augmenting Items 0540-001-001, 2200-001-001, 2240-001-001, 3360-001-465, 3720-001-001, 4170-101-001, 4200-101-001, 4260-101-001, 4260-111-001, 4260-121-001, 4440-101-001, 4440-111-001, 5240-001-001, 5450-001-001, 5460-001-001, 7980-111-001, 7980-121-001, 8260-001-001, 8300-001-001, 8570-001-001, 9800-001-001, 9800-001-494, and 9800-001-988 thereof, amending Items 6440-025-001 and 6610-025-001 thereof, and adding Items 0820-301-001, 2200-001-036, 2200-101-036, and 9210-102-001 thereto, relating to the support of the State of California, and making an appropriation therefor, to take effect immediately, usual current expenses.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988.]

I am deleting the $3 million transfer to the General Fund contained in Section 17 of Assembly Bill No. 1903 This action is necessary due to the lack of funds in the Special Account for Capital Outlay

With this deletion, I approve Assembly Bill No 1903

GEORGE DEUKMEJIAN

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

SECTION 1. Item 0820-301-001 is added to Section 2.00 of the Budget Act of 1988, to read:

0820-301-001—For capital outlay, Department of Justice 355,000
Schedule:
(a) 85.50.040—Sacramento: California Criminalistics Institute—Alterations and Renovations and Construction 355,000
Provisions:
1. Notwithstanding any other provision of law, funds appropriated in this item for construction of the Sacramento California Criminalistics Institute shall be used in conjunction with $175,000 from funds appropriated in Chapter 1040 of the Statutes of 1986.

SEC. 2 Item 2200-001-036 is added to Section 2.00 of the Budget Act of 1988, to read:

2200-001-036—For support of Department of Commerce, payable from the Special Account for Capital Outlay 420,000
Schedule:
(a) Program 20-Competitive Technology 420,000
(b) Program 70.01-Administration 55,000
(c) Program 70.02-Distributed Administration ..... -55,000

SEC. 3. Item 2200-101-036 is added to Section 2.00 of the Budget Act of 1988, to read:

2200-101-036—For local assistance, competitive technology, Department of Commerce, payable from the Special Account for Capital Outlay 6,580,000

SEC. 4. Item 6440-025-001 of Section 2.00 of the Budget Act of 1988 is amended to read:

6440-025-001—For support of University of California, upon order of the Department of Finance, the State Controller shall make reductions to one or more of the following items:
(a) 6440-001-001
(b) 6440-003-001
(c) 6440-006-001
(d) 6440-011-001

(e) 6440-016-001

Provisions:

1. The reduction shall equal 1.88 percent of the total of the General Fund appropriations made to the University of California in the above-specified items.
2. It is the intent of the Legislature that resident fees for the 1988–89 school year not be increased as a result of the reduction.

SEC. 5. Item 6610-025-001 of Section 2.00 of the Budget Act of 1988 is amended to read:

6610-025-001—For support of Trustees of the California State University and the California State University, upon order of the Department of Finance, the State Controller shall make reductions to one or more of the following items:

(a) 6610-001-001
(b) 6610-002-001
(c) 6610-003-001
(d) 6610-006-001
(e) 6610-021-001
(f) 6610-031-001

Provisions:

1. The reduction shall equal 2.09 percent of the General Fund appropriation made to the Trustees of the California State University in the above-specified items.
2. It is the intent of the Legislature that resident fees for the 1988–89 school year shall not be increased as a result of the reduction.

SEC. 5.5. Item 9210-102-001 is added to Section 2.00 of the Budget Act of 1988, to read:

9210-102-001—For local assistance, for payment by the Controller pursuant to Section 15 of this act. 10,000,000

Provisions:

1. When the Director of Finance determines that receipt of an amount specified in those subdivisions would result in a county or city and county having proceeds of taxes in excess of its appropriations limit pursuant to Article XIII B of the California Constitution, the Director of Finance shall reduce the amount accordingly. In the case of a reduction pursuant to this subdivision, and if the electors of the local jurisdiction subsequently raise the 1988–89 fiscal year appropria-

tions limit of the jurisdiction, county, or city and county, the county or city and county shall notify the Director of Finance on or before June 30, 1989. The Director of Finance shall certify a supplemental amount to the Controller within 15 days of receiving notice. The Controller shall issue a warrant in that amount to the county or city and county within 30 days of receiving the certification. In the case of a reduction pursuant to this subdivision where there is no certification of a supplemental amount to the Controller on or before July 15, 1989, the Controller shall distribute the amount of the reduction to all other counties and cities and counties.

SEC. 6. The sum of one hundred thirty-seven million six hundred thirty-three thousand dollars ($137,633,000) is hereby appropriated from the General Fund in accordance with the following schedule in augmentation of, and for the purposes of, the listed items of Section 2.00 of the Budget Act of 1988:

(a) To Item 0540-001-001, $683,000.
(b) To Item 2200-001-001, $5,500,000 for Program 30.
(c) To Item 2240-001-001, $425,000.
(d) To Item 3720-001-001, $400,000.
(e) To Item 4170-101-001, $750,000.
(f) To Item 4200-101-001, $1,300,000.
(g) To Item 4260-101-001, $22,300,000.
(h) To Item 4260-111-001, $3,825,000.
(i) To Item 4260-121-001, $1,350,000.
(j) To Item 4440-101-001, $4,800,000.
(k) To Item 4440-111-001, $900,000.
(*l*) To Item 5240-001-001, $71,900,000.
(m) To Item 5450-001-001, $1,000,000.
(n) To Item 5460-001-001, $14,400,000.
(o) To Item 7980-111-001, $1,600,000.
(p) To Item 7980-121-001, $2,400,000.
(q) To Item 8260-001-001, $1,000,000 for Program 45.
(r) To Item 8300-001-001, $600,000.
(s) To Item 8570-001-001, $1,500,000.
(t) To Item 9800-001-001, $1,000,000.

SEC. 6.3. The sum of six hundred thousand dollars ($600,000) is hereby appropriated from the Energy Resources Programs Account, General Fund, in augmentation of, and for the purposes of, category (b) of Item 3360-001-465 of Section 2.00 of the Budget Act of 1988.

SEC. 6.5. The sum of five hundred thousand dollars ($500,000) is hereby appropriated from unallocated special funds in augmentation of, and for the purposes of, Item 9800-001-494 of Section 2.00 of the Budget Act of 1988.

SEC. 6.7. The sum of three hundred thirty-five thousand dollars

($335,000) is hereby appropriated from unallocated nongovernmental cost funds in augmentation of, and for the purposes of, Item 9800-001-988 of Section 2.00 of the Budget Act of 1988.

SEC. 7. The amount augmenting Item 4170-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (e) of Section 6 shall be used for new Alzheimer's day care resource centers in accordance with Provision 2 of Item 4170-101-001 of Section 2.00 of the Budget Act of 1988. Of this amount, $150,000 shall be allocated to existing Alzheimer's Day Care Resource Centers.

SEC. 8. The amount augmenting Item 4200-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (f) of Section 6 shall be allocated to counties with the highest number of AIDS cases with a history of intravenous drug use, to increase treatment to intravenous drug users at risk of contracting or spreading HIV infection and to their partners. The Department of Alcohol and Drug Programs shall ensure that those served hereby are at greatest risk.

SEC. 9. (a) $4,000,000, in addition to $4,000,000 of federal matching funds, of the amount augmenting Item 4260-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (g) of Section 6 shall be allocated to fund increases for basic emergency services authorized by Assembly Bill 4563 of the 1987–88 Regular Session of the Legislature.

(b) $3,300,000, in addition to $3,300,000 of federal matching funds, of the amount augmenting Item 4260-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (g) of Section 6 shall be allocated to fund rate increases for maternity care providers authorized by Senate Bill 2579 of the 1987–88 Regular Session of the Legislature.

(c) The Department of Health Services shall allocate $15,000,000 of the amount augmenting Item 4260-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (g) of Section 6 to Los Angeles County for settlement of Medi-Cal audit issues.

SEC. 10. The amount augmenting Item 4260-111-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (h) of Section 6 shall be allocated by the Department of Health Services as follows:

(a) $400,000 in additional contracts for AIDS education in publicly funded clinics. In allocating these funds, the department shall give priority to the clinics serving high-risk populations.

(b) $200,000 for increased early intervention services to intravenous drug users.

(c) $1,500,000 to fund health screening programs for asymptomatic HIV-infected people as authorized by Assembly Bill 4475 of the 1987–88 Regular Session.

(d) $800,000 to expand home health care, attendant care, and hospice services to persons with AIDS.

(e) $500,000 to fund outreach to high-risk pregnant women, as authorized by Senate Bill 2579 of the 1987–88 Regular Session.

(f) $200,000 to expand services under the Adolescent Family Life Program.

SEC. 11. The amount augmenting Item 4260-121-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (i) of Section 6 shall be allocated by the Department of Health Services as follows:

(a) $600,000 to increase grants for existing Alzheimer's diagnostic and treatment centers.

(b) $750,000 for new Alzheimer's diagnostic and treatment centers.

SEC. 12. The amount augmenting Item 4440-101-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (j) of Section 6 shall be allocated by the Department of Mental Health as follows:

(a) $1,500,000 exclusively for Children's Services which shall be used to continue existing community service delivery models, such as that exemplified by Chapter 1361 of the Statutes of 1987, the Ventura County Model for Children's Mental Health Services, or to develop new and alternative community mental health services for children who are mentally ill and their families or for primary prevention activities, to inlcude coordinated, interagency services for infants and preschoolers who are at high risk of becoming emotionally disturbed, or who are currently exhibiting delays in interpersonal, social/emotional, language, and/or cognitive development emanating from psychosocial causes.

(b) $2,500,000 shall be allocated for the Residential Supplemental Rate Program.

(c) $500,000 for AIDS community mental health services, to include provision of professional mental health service through funding to county mental health or private organizations, innovative programs to conduct mental health outreach, support of volunteer facilitators for counseling groups, and assurance that the needs of ethnic minorities will be addressed.

(d) $200,000 to fund two mental health day treatment demonstration projects for persons with AIDS or ARC, or who are HIV positive, but who do not have severe medical complications.

(e) $100,000 to the Hemophilia Council of California for outreach activities, crisis intervention, and case management.

SEC. 13. The amount augmenting Item 4440-111-001 of Section 2.00 of the Budget Act of 1988 pursuant to subdivision (k) of Section 6 shall be allocated by the Department of Mental Health as follows:

These funds shall provide increased support for the statewide resources consultant, the Regional Resources Center for Brain Impaired Adults, and the Department of Mental Health pursuant to Chapter 1658 of the Statutes of 1984. The highest priority for the use of these funds shall be to expand services to underserved geographic areas and provide vouchered services, such as respite care for clients on waiting lists.

SEC. 14. Notwithstanding any other provision of law, the number of new Cal Grant (b) awards paid pursuant to Item 7980-121-001 of Section 2.00 of the Budget Act of 1988 shall be increased by 1,500 to a total of 10,750 each year.

SEC. 15. Of the amount appropriated in Item 9210-102-001, the

Controller shall allocate funds to counties as follows:

(1) Alpine, $7,290
(2) Amador, $178,230
(3) Butte, $352,341
(4) Calaveras, $90,963
(5) Colusa, $11,841
(6) Del Norte, $209,009
(7) El Dorado, $64,175
(8) Fresno, $765,700
(9) Glenn, $120,919
(10) Humboldt, $325,959
(11) Imperial, $206,787
(12) Inyo, $262,008
(13) Kern, $385,039
(14) Kings, $299,210
(15) Lake, $67,642
(16) Lassen, $18,904
(17) Madera, $288,183
(18) Marin, $149,754
(19) Mariposa, $6,521
(20) Mendocino, $309,967
(21) Merced, $364,294
(22) Modoc, $62,163
(23) Mono, $77,072
(24) Monterey, $236,436
(25) Napa, $71,535
(26) Nevada, $239,883
(27) Placer, $90,611
(28) Plumas, $20,238
(29) San Benito, $30,194
(30) San Joaquin, $570,300
(31) San Luis Obispo, $131,953
(32) Santa Barbara, $244,498
(33) Santa Cruz, $162,231
(34) Shasta, $339,901
(35) Sierra, $29,994
(36) Siskiyou, $277,003
(37) Solano, $402,929
(38) Sonoma, $426,053
(39) Stanislaus, $498.315
(40) Sutter, $138,836
(41) Tehama, $154,586
(42) Trinity, $156,712
(43) Tulare, $449,463
(44) Tuolumne, $275,019
(45) Yolo, $306,019
(46) Yuba, $123,318

SEC. 16. Notwithstanding any other provision of law, the amount augmenting Item 9800-001-001 of Section 2.00 of the Budget Act of

1988 pursuant to subdivision (t) of Section 6 shall be expended for unanticipated health insurance premium cost increases for those employees and retirees, identified by PERS, who live where there is no available, competitive health maintenance organization and a fee-for-service health plan is the only option. This expenditure shall be subject to an agreement between the administration and employee/retiree representatives.

SEC. 17. Notwithstanding any other provision of law, on the effective date of this act, the Controller shall transfer three million dollars ($3,000,000) from the Special Account for Capital Outlay to the General Fund.

SEC. 18. This act makes an appropriation for the usual current expenses of the state within the meaning of Article IV of the California Constitution and shall go into immediate effect.

CHAPTER 975

An act to amend Section 13967 of the Government Code, to amend and repeal Section 1203.1 of the Penal Code, and to amend Sections 730.6 and 886.5 of the Welfare and Institutions Code, relating to local government.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 19, 1988]

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

SECTION 1. Section 13967 of the Government Code is amended to read:

13967. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay restitution in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Except as provided in Section 1202.4 of the Penal Code and subdivision (c) of this section, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section. This fine shall not

be subject to penalty assessments as provided in Section 1464 of the Penal Code.

(b) Except as provided in subdivision (c), the fine imposed pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the State Budget process.

(c) In cases in which a victim has suffered economic loss as a result of the defendant's criminal conduct, and the defendant is denied probation, in lieu of imposing all or a portion of the restitution fine, the court shall order restitution to be paid to the victim. Notwithstanding subdivision (a), restitution shall be imposed in the amount of the losses, but not to exceed ten thousand dollars ($10,000). A restitution order imposed pursuant to this subdivision shall identify the losses to which it pertains, and shall be enforceable as a civil judgment. The making of a restitution order pursuant to this subdivision shall not affect the right of a victim to recovery from the Restitution Fund in the manner provided elsewhere, except to the extent that restitution is actually collected pursuant to the order. Restitution collected pursuant to this subdivision shall be credited to any other judgments for the same losses obtained by the victim against the defendant arising out of the crime for which the defendant was convicted.

(d) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order of the court, the proceeds of which shall be deposited in the general fund of the county.

SEC. 2. Section 1203.1 of the Penal Code, as amended by Section 2 of Chapter 897 of the Statutes of 1987, is amended to read:

1203.1. The court or judge thereof, in the order granting probation, may suspend the imposing, or the execution, of the sentence and may direct that the suspension may continue for a period of time not exceeding the maximum possible term of the sentence, except as hereinafter set forth, and upon those terms and conditions as it shall determine. The court, or judge thereof, in the order granting probation and as a condition thereof may imprison the defendant in the county jail for a period not exceeding the maximum time fixed by law in the case; however, where the maximum possible term of the sentence is five years or less, then the period of suspension of imposition or execution of sentence may, in the discretion of the court, continue for not over five years; may fine the defendant in a sum not to exceed the maximum fine provided by law in the case; or may in connection with granting probation, impose either imprisonment in county jail, or fine, or both, or

neither; shall provide for restitution in proper cases; and may require bonds for the faithful observance and performance of any or all of the conditions of probation.

The court shall consider whether the defendant as a condition of probation shall make restitution to the victim or the Restitution Fund. Any restitution payment received by a probation department in the form of cash or money order shall be forwarded to the victim within 30 days from the date the payment is received by the department. Any restitution payment received by a probation department in the form of a check or draft shall be forwarded to the victim within 45 days from the date the payment is received by the department, provided, that payment need not be forwarded to a victim until 180 days from the date the first such payment is received, if the restitution payments for that victim received by the probation department total less than fifty dollars ($50). In cases where the court has ordered the defendant to pay restitution to multiple victims and where the administrative cost of disbursing restitution payments to multiple victims involves a significant cost, any restitution payment received by a probation department shall be forwarded to multiple victims when it is cost effective to do so, but in no event shall restitution disbursements be delayed beyond 180 days from the date the payment is received by the probation department. In counties or cities and counties where road camps, farms, or other public work is available the court may place the probationer in such a road camp, farm, or other public work instead of in jail; Section 25359 of the Government Code shall apply to probation and the court shall have the same power to require adult probationers to work, as prisoners confined in the county jail are required to work, at public work. Each county board of supervisors may fix the scale of compensation of the adult probationers in that county. In all cases of probation the court may require as a condition of probation that the probationer go to work and earn money for the support of his or her dependents or to pay any fine imposed or reparation condition, to keep an account of his or her earnings, to report them to the probation officer and apply those earnings as directed by the court.

The court shall also consider whether the defendant as a condition of probation shall make restitution to a public agency for the costs of an emergency response pursuant to Article 8 (commencing with Section 53150) of Chapter 1 of Part 1 of Division 2 of the Government Code.

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

Upon conviction of any offense involving child abuse or neglect,

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

The court may impose and require any or all of the above-mentioned terms of imprisonment, fine, and conditions, and other reasonable conditions, as it may determine are fitting and proper to the end that justice may be done, that amends may be made to society for the breach of the law, for any injury done to any person resulting from that breach, and generally and specifically for the reformation and rehabilitation of the probationer, and that should the probationer violate any of the terms or conditions imposed by the court in the matter, it shall have authority to modify and change any and all such terms and conditions and to reimprison the probationer in the county jail within the limitations of the penalty of the public offense involved. Upon the defendant being released from the county jail under the terms of probation as originally granted or any modification subsequently made, and in all cases where confinement in a county jail has not been a condition of the grant of probation, the court shall place the defendant or probationer in and under the charge of the probation officer of the court, for the period or term fixed for probation. However, upon the payment of any fine imposed and the fulfillment of all conditions of probation, probation shall cease at the end of the term of probation, or sooner, in the event of modification. In counties and cities and counties in which there are facilities for taking fingerprints, those of each probationer shall be taken and a record of them kept and preserved.

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

If the court orders restitution to be made to the victim, the board of supervisors may add a fee to cover the actual administrative cost of collecting restitution but not to exceed 10 percent of the total amount ordered to be paid. The fees shall be paid into the general fund of the county treasury for the use and benefit of the county.

SEC. 3. Section 1203.1 of the Penal Code, as amended by Section 3 of Chapter 897 of the Statutes of 1987, is repealed.

SEC. 4. Section 730.6 of the Welfare and Institutions Code is amended to read:

730.6. (a) When a minor is found to be a person described in Section 602, in addition to any other disposition authorized by law,

the court shall levy a restitution fine which shall be deposited in the Restitution Fund, the proceeds of which shall be distributed pursuant to subdivision (b) of Section 13967 of the Government Code.

(b) The restitution fine imposed pursuant to this section shall be in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. In addition, if the person is found to be a person described in Section 602 by reason of the commission of one or more felony offenses, the court shall impose a separate and additional restitution fine of not more than one thousand dollars ($1,000). In setting the amount of the fine for felony offenses, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the minor as a result of the offense, and the extent to which others suffered losses as a result of the offense. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the offense.

(c) The restitution fine shall be imposed in every case in which a minor is found to be a person described in Section 602. Such restitution fine shall be in addition to any other disposition or fine imposed and shall be imposed regardless of the minor's present ability to pay. Except as provided in this section, under no circumstances shall the court fail to impose the separate and additional restitution fine in felony cases required by this section. This fine shall not be subject to penalty assessments pursuant to Section 1464 of the Penal Code. In a case in which the minor is a person described in Section 602 by reason of having committed a felony offense, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of the restitution fine. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(d) In any case in which the minor is ordered to pay restitution as a condition of probation, the order to pay the restitution fine may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(e) If the restitution fine has been stayed pending successful completion of probation, upon revocation of probation and imposition of sentence the stay shall be lifted. The amount of the restitution fine shall be offset by any restitution payments actually made as a condition of probation. However, probation shall not be revoked for failure of a person to make restitution pursuant to Section 729.6 as a condition of probation unless the court determines that the person has willfully failed to pay or failed to make sufficient bona fide efforts to legally acquire the resources to pay.

(f) At its discretion, the board of supervisors of any county may impose a fee to cover the actual administrative cost of collecting the restitution fine, not to exceed 10 percent of the amount ordered to be paid, to be added to the restitution fine and included in the order

of the court, the proceeds of which shall be deposited in the general fund of the county.

SEC. 5. Section 886.5 of the Welfare and Institutions Code is amended to read:

886.5. Notwithstanding Section 886, a juvenile home, ranch, camp, or forestry camp may receive or contain a maximum of 125 children at any one time if the county has submitted a request for approval for expanded capacity to the Department of the Youth Authority demonstrating a consistent need for juvenile home, ranch, camp, or forestry camp placements which exceeds the beds available in the county, and the department has approved that request. Any request from a county to expand the capacity of a juvenile home, ranch, camp, or forestry camp pursuant to this section shall certify that the facility to be expanded will continue to meet the minimum standards adopted and prescribed pursuant to Section 885 during the period of expanded capacity. The department shall approve any such request only after confirming by inspection of the facility sought to be expanded that the expansion will not result in overcrowding of structures and that the facility will comply with the minimum standards during its period of expanded capacity.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 976

An act to add Section 14105.97 to the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

I am reducing the appropriation contained in Section 3 of Senate Bill No 2563 from $8,000,000 to $5,000,000

The provisions of this bill reflect the agreement reached between the Legislature and the Administration to complete the 1988–89 Budget process $5,000,000 was determined by all parties to be the appropriate level of funding for this program and a reduction of $3,000,000 is necessary to conform the provisions of this bill with the agreement

With this reduction, I approve Senate Bill No. 2563

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. The Legislature finds and declares all of the following:

(a) That many hospitals provide a disproportionate share of

health care services to Medi-Cal recipients and indigent persons; however, there are insufficient funds for these disproportionate providers to most effectively provide outpatient health care services to the indigent population of this state.

(b) Since federal law requires state Medicaid plans to take into account the special needs of hospitals that serve a disproportionate share of low-income persons, the pattern of underreimbursement for outpatient services to the Medi-Cal population should be corrected for hospitals that serve large numbers of the poor.

(c) Hospitals serving a disproportionate share of low-income patients serve as a health care "safety net" for those who are economically disadvantaged.

(d) Public policies of the State of California should contain incentives to provide medical goods and services at the most appropriate level of care and at the lowest cost possible.

(e) State and local governments should develop health care programs which opt for federal matching funds whenever available.

SEC. 2. Section 14105.97 is added to the Welfare and Institutions Code, to read:

14105.97. (a) The department shall develop an outpatient disproportionate provider factor for each hospital during the first quarter of each year using the most recent annual disclosure data administered by the Office of Statewide Health Planning and Development. The department shall permit hospitals to certify to changes in relevant data subsequent to the most recent state report in order to ensure that the factor reflects the hospital's most recent experience.

(b) The factor described in subdivision (a) shall be the proportion of total outpatient gross revenue attributable to Medi-Cal gross revenue and "other" outpatient deductions from revenue, as defined in the Medicare cost report prepared pursuant to 42 U.S.C.A. 1395g and 42 C.F.R. 405.406(b). Hospitals that previously did not submit the necessary data elements shall be permitted to amend their most recent report or submit more recent data prior to implementation of this section. An outpatient disproportionality threshold shall be established by the department at the mean, which in the most recent 1984–85 data is 22.5 percent of total outpatient gross revenue.

(c) Augmentation levels may be based on the degree to which hospitals exceed the outpatient disproportionality threshold, as follows:

(1) Threshold to Threshold	+ 4.99%
(2) Threshold	+ 5% to Threshold + 9.99%
(3) Threshold	+ 10% to Threshold + 14.99%
(4) Threshold	+ 15% to Threshold + 19.99%
(5) Threshold	+ 20% and above

(d) The hospital outpatient augmentation levels shall be incorporated into the rate adjustment made subsequent to

enactment of the annual Budget Act and shall not exceed usual and customary charges.

(e) Augmentation rates shall be applied to hospitals with all inclusive rates at the point of final audit settlement and shall be included in subsequent interim reimbursement rates.

(f) The director shall adopt regulations implementing this section as emergency regulations, if so required, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the director in order to implement this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

The director may, on an emergency basis as provided in this subdivision, periodically amend the regulations for the implementation of this section in order to refine, improve, make specific or otherwise enhance the administration and the intent of this section, or to limit expenditures to stay within the amounts appropriated.

(g) The department shall seek federal approval for this section, if necessary.

(h) Subject to the limitations contained in this section, rate increases granted pursuant to this section shall become effective October 1, 1988.

SEC. 3. The sum of eight million dollars ($8,000,000) is hereby appropriated from the General Fund to the State Department of Health Services to fund the rate increases authorized by Section 2 of this act for the 1988–89 fiscal year.

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

Because of the severe financial plight of disproportionate share providers, augmentation to their outpatient reimbursement is an immediate necessity, and, consequently, it is essential that this act take effect immediately.

CHAPTER 977

An act to add Chapter 1.8 (commencing with Section 185) to Part 1 of Division 1 of the Health and Safety Code, relating to AIDS, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988.]

I am reducing the appropriation contained in Section 2 of Assembly Bill No. 4437 from $2,800,000 to $2,500,000.

The provisions of this bill reflect the agreement reached between the Legislature and the Administration to complete the 1988–89 Budget process. $2,500,000 was determined by all parties to be the appropriate level of funding for this program and a reduction of $300,000 is necessary to conform the provisions of this bill with the agreement.

With this reduction, I approve Assembly Bill No 4437

GEORGE DEUKMEJIAN

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

SECTION 1. Chapter 1.8 (commencing with Section 185) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.8. PROVISION OF AZIDOTHYMIDINE

185. The Legislature hereby finds and declares all of the following:

The drug azidothymidine (AZT) improves and prolongs the quality of life for those suffering from acquired immune deficiency syndrome (AIDS) or AIDS-related conditions, is believed to reduce the infectiousness of a person infected with human immunodeficiency virus (HIV), and is the only drug approved by the federal Food and Drug Administration for treatment of AIDS and AIDS-related conditions;

Hundreds of Californians infected with HIV are receiving AZT due to a subsidy for AZT made available by the federal government for low-income people;

The State Department of Health Services estimates that it will have sufficient federal funds to maintain those enrolling in the program prior to October 1, 1988, through April 1989, if it terminates new enrollees beginning October 1, 1988;

The State Department of Health Services intends to direct counties to cease accepting new enrollees for the subsidy program beginning October 1, 1988, because of the exhaustion of these federal funds;

The federal government has an obligation to continue to support the subsidy program that it has initiated because of the horrendous moral consequences of terminating the access of low-income infected people to the drug;

The funding cycle for federal programs precludes appropriating

additional funds to maintain this program until June of 1989.

186. It is the intent of the Legislature that the State of California continue to provide temporary funding for the program to ensure that those whose health depends on obtaining access to AZT and who are unable to afford it can receive the drug during this interim period.

187. The State Department of Health Services shall continue through June 1989, the AZT subsidy program established in 1987 with federal funds. The department shall maintain the eligibility standards used for the program as of August 1988. The department shall allocate to local health jurisdictions the funds appropriated to support the subsidy program. The department may reallocate funds among these local health jurisdictions as needed to ensure that persons requiring the subsidy receive it through June 1989.

SEC. 2. The sum of two million eight hundred thousand dollars ($2,800,000) is hereby appropriated from the General Fund to the State Department of Health Services for purposes of this act.

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

Federal funds for the drug AZT will cease to be available on October 1, 1988, and in order to assure the health and safety of numerous citizens who require this drug, it is necessary for this act to take immediate effect.

CHAPTER 978

An act to add Sections 1632.5 and 1634 to the Health and Safety Code, relating to AIDS, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

I am deleting the $1 2 million appropriation contained in Section 3 of Assembly Bill No 4475

AB 1903 contains funds to implement this program The provisions of this bill and the appropriation in AB 1903 reflect the agreement reached between the Legislature and the Administration to complete the 1988–89 Budget process $1 5 million was determined by all parties to be the appropriate level of funding for this program and is contained in AB 1903 Thus, the appropriation contained in this bill is duplicative and unnecessary.

With this deletion, I approve Assembly Bill No. 4475

GEORGE DEUKMEJIAN

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

SECTION 1. Section 1632.5 is added to the Health and Safety Code, to read:

1632.5. (a) In order to protect the public health, the director

shall designate counties agreeing to participate pursuant to this section, to establish followup programs, in not more than six counties, for persons who have tested positive for the human immunodeficiency virus (HIV). Services shall be provided on an anonymous basis, as required by Section 1632, unless anonymity is waived by the client. Expansion of the use of followup programs shall be targeted at those communities with the largest number of diagnosed cases of acquired immune deficiency syndrome (AIDS).

A county shall be eligible for reimbursements for the cost of providing services upon submission of a plan and budget by the county health officer in accordance with the format prescribed by the department. Any funds received by a county shall only be expended for HIV followup services for individuals testing HIV positive.

The plan shall include, but not be limited to, the following:

(1) A scope of work.

(2) A description of proposed HIV followup services.

(3) A description of how community-based service and support organizations traditionally serving the individuals who are HIV positive will be utilized in providing HIV followup services.

(4) A plan of operation.

(5) A system of evaluation.

(b) Each county designated by the director shall make the followup program available within its jurisdiction. Counties may charge for the program's costs based on an individual's ability to pay. The program shall be made available by the county either directly or by contract with a physician or surgeon or with any clinic or health facility licensed by the department. A county may subcontract with individuals or entities to provide information and referral services.

(c) The followup programs shall provide services to people who indicate that they have tested positive for HIV. Followup programs shall provide health assessments and behavior change programs.

(d) Health screening provided by each followup program shall include all of the following:

(1) A physical examination.

(2) An immunologic laboratory workup.

(3) An assessment of the frequency with which the person engages in high-risk behaviors.

(4) Information on treatment of HIV and the availability of treatment in the area.

(5) Information on health insurance.

(6) Referral for medical and psychological treatment, if appropriate.

(7) Behavior change programs.

(e) Repeat screens shall be offered to infected persons at medically appropriate intervals until an individual has been referred on for medical treatment. Referrals for medical treatment shall be made when a physician concludes that the individual's immune system has been seriously compromised.

(f) Followup programs shall not dispense or prescribe sterile needles or syringes to intravenous drug users.

(g) The state department shall also make behavior change programs for HIV infected people available to those who receive their health care from private physicians who serve large numbers of infected people.

(h) The state department shall establish a reimbursement process for counties within 60 days after the effective date of this section for all the services detailed in subdivision (c). The state department shall establish the amounts to be reimbursed for these services, but the amounts shall be established at a level to ensure that the purposes of this article are carried out.

(i) A participating county or the state department may accept grants, donations, and in-kind services for purposes of carrying out this article. The department shall agressively pursue federal funding to fund the health screening followup program.

(j) Reports of examinations, cases, investigations, and all records thereof made under this section shall be confidential and not open to public inspection. If the client has waived the anonymity provided for in this section, disclosures may be made only in accordance with Section 199.21.

SEC. 2. Section 1634 is added to the Health and Safety Code, to read:

1634. (a) The department shall ensure that counties participating in the programs established under Section 1632.5 collect data on the medical needs of persons referred for medical treatment and their ability to pay for the treatment they require. The department shall analyze the data and provide an assessment of the treatment and funding requirements to the Legislature upon request.

(b) The director may establish outpatient treatment programs, as found to be necessary, for persons referred for medical treatment by the health screening programs established pursuant to Section 1632.5. Funding for the programs shall be obtained either from the federal government or from funds appropriated in the annual Budget Act. When the department notifies the Legislature of its intention to expend federal funds, in accordance with any requirements in the annual Budget Act, in the notification, the director shall describe state and county responsibilities for the program, detail services to be funded, specify whether a county match is being required, and describe program costs and funding sources.

(c) Counties shall consider utilizing existing services and programs with which they currently contract, or which are currently in operation, prior to establishing new programs pursuant to this section and Section 1632.5. A description of the process used in considering the utilization of existing services and programs shall be included in any reports, assessments, and evaluations required pursuant to subdivision (a).

SEC. 3. There is hereby appropriated from the General Fund to the State Department of Health Services the sum of one million two hundred thousand dollars ($1,200,000) in order to implement this act.

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

Due to the increasing severity of the AIDS epidemic and the need to ensure that persons infected with the AIDS virus receive treatment and behavior change information, it is necessary that this act go into immediate effect.

CHAPTER 979

An act to add Article 3.2 (commencing with Section 309.100) to Chapter 1 of Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Article 3.2 (commencing with Section 309.100) is added to Chapter 1 of Part 1 of Division 1 of the Health and Safety Code, to read:

Article 3.2. California Adolescent Family Life Act of 1988

309.100. The Legislature hereby finds and declares that:

(a) Adolescent pregnancy and parenthood is a problem with significant social, medical, educational, and economic consequences to the teen parent and child, her family, and the State of California.

(b) In an attempt to address the problems of pregnant and parenting adolescents, the Governor, in 1985, created the Adolescent Family Life Demonstration Program, which was designed to bring pregnant and parenting teenagers into programs that provide services of demonstrated cost benefit and effectiveness by organizing networks of local agencies focused on providing services to adolescents and ensuring the most timely and effective utilization of services.

(c) Independent evaluations indicate that the program has been successful and effective in achieving its intended goals of providing pregnant adolescents with prenatal care, reducing the incidence of low birthweight babies born to adolescent mothers, keeping or reenrolling pregnant and parenting adolescents in school, and reducing the rate of repeat teen pregnancies.

309.200. (a) The State Department of Health Services may

conduct the Adolescent Family Life Program to assure that pregnant adolescents receive comprehensive continuous prenatal care in order to deliver healthy babies; to establish networks within regions to provide to pregnant and parenting teens and their children necessary services including medical care, psychological and nutritional counseling, maternity counseling, adoption counseling, academic and vocational programs, and day care; to provide a continuous case manager to each family unit; and to maintain a data base to measure outcomes of adolescent pregnancies. Specific procedures to operate this program will be defined and carried out through standards and guidelines established by the department.

(b) No grant funds may be used for essential services to pregnant adolescents or schoolage parents unless the services are not available in the county or are insufficient to meet the basic needs of the population to be served; in which case, funds may be used for essential services only as set forth in the approved grant application. No grant funds may be expended for abortions, abortion referrals, or abortion counseling.

309.300. Funding for the purpose of this article shall be provided through funds appropriated to the State Department of Health Services through the annual Budget Act.

CHAPTER 980

An act to amend Section 285 of the Health and Safety Code, and to add Article 4.7 (commencing with Section 14148) to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to health, and making an appropriation therefor.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. (a) The Legislature finds and declares perinatal care is the most effective preventive measure against infant mortality and lifetime disabilities caused by low birthweight. By providing perinatal care which lowers an infant's risk of serious health problems, the high health care costs to the state are lessened considerably.

(b) The Legislature also finds and declares that access to perinatal care is being diminished because providers are dropping out of the maternity care system. Measures should, therefore, be taken to encourage provider participation and reverse the provider dropout trend.

(c) It is the intent of the Legislature to do all of the following:

(1) Streamline and make more efficient the delivery of perinatal care services for low-income women.

(2) Reduce Medi-Cal provider and state administrative paperwork and overhead.

(3) Enable the state to make maximum use of federal financial participation.

(4) Ensure that low-income pregnant women have access to perinatal care services.

(5) Expand Medi-Cal eligibility for pregnant women and infants up to and including 185 percent of the federal poverty level within the existing resources of the State Department of Health Services.

(6) Ensure that maternity care providers take all necessary steps to seek Medi-Cal eligibility and reimbursement for those clients eligible under these provisions.

SEC. 2. Section 285 of the Health and Safety Code is amended to read:

285. (a) The State Department of Health Services shall develop and maintain a statewide comprehensive community-based perinatal services program and enter into contracts, grants, or agreements with health care providers to deliver these services in a coordinated effort to the extent permitted under federal law and regulation. These contracts, grants, or agreements shall be made in medically underserved areas or areas with demonstrated need. Nothing in this section shall be construed to prevent reallocation of resources or use of new moneys for the development of new community-based comprehensive perinatal systems in underserved areas or areas with demonstrated need, and supplementation of systems already in existence.

(b) As a condition of receiving funds from the Maternal and Child Health program, contractors shall bill the Medi-Cal program for services provided to Medi-Cal recipients.

SEC. 3. Article 4.7 (commencing with Section 14148) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

Article 4.7. Perinatal Services Program

14148. (a) The department shall adopt the federal option provided under Section 4101 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) to extend eligibility for medical assistance under Medicaid to all pregnant women and infants with family incomes not in excess of 185 percent of the federal poverty level. If a premium is imposed, the amount of the premium shall not exceed 10 percent of the amount by which the family's income, less actual child care costs, exceeds 150 percent of the federal poverty level as required by Section 4101 (a) of the 1987 Medicaid Budget Reconciliation Agreement. The department shall implement this section by emergency regulation.

The department shall advise the Chairperson of the Assembly Ways and Means Committee, the Senate Budget and Fiscal Review Committee, the Assembly Health Committee, and the Senate

Committee on Health and Human Services, on a quarterly basis, regarding the identification and redirection of existing department funds or General Fund money necessary to implement this section. The department shall notify these committees 30 days prior to redirecting those funds to implement this section.

(b) Upon order of the Department of Finance, the State Controller shall transfer funds from Item 4260-101-001 of the Budget Act of 1988 to Item 4260-111-001 of the 1988 Budget Act of 1988 during the 1988-89 fiscal year for the purpose of funding outreach efforts for perinatal services.

(c) Notwithstanding subdivision (a), the state may limit implementation of this section during the 1988–89 fiscal year, based upon the availability of department funds. The department may use maternal and child health funds to finance the increased costs of implementing an expansion of Medi-Cal eligibility to women and children with incomes of up to 185 percent of federal poverty levels if both of the following conditions exist:

(1) The department has allocated for expenditure at least sixteen million dollars ($16,000,000) in funds redirected from the Medi-Cal program for that expansion.

(2) If, and to the extent, the department determines that estimates of costs based on actual data indicate that the funds are needed to cover costs.

(d) This section shall be fully implemented no later than April 1, 1990.

(e) To assist Medi-Cal eligible pregnant women in receiving prenatal care promptly, all pregnant women applying for Medi-Cal shall be determined to have an immediate need. Counties, within existing resources, shall expedite the eligibility determination process for all pregnant women on the basis of their immediate needs. Upon determination of eligibility, a Medi-Cal card shall be issued immediately.

14148.1. To maximize federal financial participation, the department shall seek flexibility in implementing the requirements of Section 121 of the Immigration Reform and Control Act of 1986 (Public Law 99-603) for Medi-Cal eligible women with confirmed pregnancies.

14148.2. In order to assure access to obstetrical providers in the Medi-Cal program, the state department shall explore and adopt policies which improve provider relations with Medi-Cal maternity care providers. Policies to be considered shall include, but not be limited to, those which reduce the annual percentage of obstetrical billings going to the department's suspense file, simplify provider claim forms, establish toll-free telephone lines for the exclusive use of maternity care providers, and establish clear reimbursement guidelines. In addition, the department shall explore policies to assure that obstetrical claims are processed on a prompt and predictable basis, the feasibility of establishing a special claims processing unit for obstetrical claims, and the adequacy of current

reimbursement levels and services reimbursed. The department shall advise the Chairs of the Assembly Health Committee and the Senate Health and Human Services Committee by July 1, 1989, on steps taken to improve provider relations and the impact these steps have had on provider participation.

14148.3. The department shall seek federal approval to implement obstetrical case management for Medi-Cal eligible pregnant women when provided through the Child Health and Disability Prevention program authorized under Article 3.4 (commencing with Section 320) of Chapter 1 of Part 1 of the Health and Safety Code.

14148.4. (a) The department may increase the reimbursement rates in effect on January 1, 1989, for non-Caesarean-section obstetric services under the Medi-Cal program by up to 18 percent. In the event that rates for non-Caesarean-section services equal or exceed rates for Caesarean section services, rates for Caesarean section services shall be increased at the same percentage as rates for non-Caesarean-section services. The department shall implement this section by emergency regulation which shall be effective for services provided on or after January 1, 1989.

(b) The department may limit the increase in reimbursement rates for obstetric services, as provided in subdivision (a), based on the availability of funds appropriated to the department in each budget year.

14148.5. The department shall determine the feasibility of providing perinatal services to pregnant women with family incomes above 185 percent, and not more than 200 percent of the federal poverty level, in the same manner that these services are being provided to the Medi-Cal population, including integration of eligibility determinations and payment of claims.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund

CHAPTER 981

An act relating to hospitals.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. The Legislature finds and declares that continuing federal approval of the Medi-Cal state plan and the selective contracting waiver requires adoption of changes in the reimbursement of hospitals which "treat a disproportionate share of low-income people with special needs" due to provisions in the federal Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203). Section 4112 of that act requires changes in the state's existing method for identifying disproportionate share hospitals and mandates adoption of a rate adjustment methodology.

SEC. 2. The Medi-Cal state plan and regulations governing the selective contracting and peer grouping hospital reimbursement systems shall be amended:

(a) To incorporate the optional methods of hospital qualification for disproportionate share hospital status specified in Section 4112 of the federal Omnibus Budget Reconciliation Act of 1987.

(b) To adopt the payment adjustments which conform to the federal requirements specified in Section 4112(c)(2) of the federal Omnibus Budget Reconciliation Act of 1987.

SEC. 3. The California Medical Assistance Commission is hereby authorized to negotiate contract rate increases not to exceed an annualized amount of fifty million dollars ($50,000,000) total funds for additional reimbursement to disproportionate share hospitals which operate basic emergency rooms and to other disproportionate share hospitals as required by the federal Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) as implemented by the State Medicaid Plan and as otherwise determined by the California Medical Assistance Commission.

SEC. 4. Nothing in this act shall be construed to mean that hospitals may not request the California Medical Assistance Commission for further consideration.

CHAPTER 982

An act to add Part 3 (commencing with Section 5800) to Division 5 of the Welfare and Institutions Code, relating to mental health, making an appropriation in augmentation of Items 4440-001-001 and 4440-101-001 of Section 2.00 of the Budget Act of 1988, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Part 3 (commencing with Section 5800) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 3. MENTAL HEALTH SERVICES ACT FOR SERIOUSLY MENTALLY DISORDERED ADULTS

CHAPTER 1. A COUNTY INTERAGENCY SYSTEM FOR SERIOUSLY MENTALLY DISORDERED ADULTS

Article 1. Short Title and Legislative Findings and Intent

5800. This part shall be known and may be cited as the Wright, McCorquodale, and Bronzan Act of 1988.

5800.5. (a) The Legislature finds that there is no comprehensive county interagency system for the delivery of mental health services to seriously mentally disordered adults and older adults, hereafter referred to as seniors. Specifically:

(1) The adult and senior population which should receive the highest priority for services has not been defined.

(2) The minimum range of treatment, case management, and community support services required by the seriously mentally disordered has not been identified and implemented.

(3) Service delivery standards which ensure uniform, appropriate care directed specifically to the needs of the seriously mentally disordered adults and seniors and their families, including ethnic minorities and persons with multiple disabilities, have not been specified and required.

(4) Although seriously mentally disordered adults and seniors usually have multiple disabilities, the many different state and county public agencies with responsibilities for these individuals do not always collaborate to jointly develop integrated and cost-effective programs.

(5) The current mental health system lacks accountability. There are neither methods nor criteria for evaluating the value received for the mental health dollar the Legislature invests. The success of treatment for specific clients over the course of their illness and the

cost effectiveness of mental health systems are not regularly monitored and reported.

(b) The Legislature further finds that Ventura County has implemented a model system of care for children and youth pursuant to the Children's Mental Health Services Act, Chapter 6.8 (commencing with Section 5565.10) of Part 1, hereafter referred to as the Ventura Model, which can be expanded to serve seriously mentally disordered adults and seniors.

(c) Therefore, using the Venture Model guidelines, it is the intent of the Legislature to accomplish the following:

(1) Establish at least one county demonstration project to develop a comprehensive county interagency system for the delivery of mental health services to seriously mentally disordered adults and seniors that can be replicated in other counties.

(2) Establish a mission statement for county interagency systems of care for seriously mentally disordered adults and seniors in the proposed demonstration projects, including a philosophy of service delivery, to guide the development of mental health programs and services.

(3) Define and establish target populations of seriously mentally disordered adults and seniors for the proposed demonstration projects pursuant to subdivisions (a) to (e), inclusive, of Section 5831.

(4) Require that 100 percent of new funds appropriated for demonstration project counties shall be dedicated to the target population as defined in subdivisions (a) to (e), inclusive, of Section 5831. Nothing in this chapter shall be construed to reduce funds available for mental health services to children and youth.

(5) Determine the client and cost outcome and interagency collaboration benefits that can be expected if the Ventura Model system of care were implemented statewide.

(6) Begin phasing in the county interagency system of care statewide during or by the end of the demonstration project, contingent on the finding of substantial benefit to seriously mentally disordered adults and seniors, effective cost control and accountability for the use of funds.

Article 2. Establishing Demonstration Counties and Their Mission

5801. (a) The State Department of Mental Health shall contract with one or more counties for at least one, but not more than three, county demonstration projects to develop and implement the model adult and senior county interagency mental health service system beginning in July 1, 1989, and ending June 30, 1993.

(b) The State Department of Mental Health shall adopt as part of its overall mission for the proposed demonstration projects, the development of community-based, county interagency systems of mental health care for seriously mentally disordered adults and seniors that result in the highest benefit to the client, family, and

community while ensuring that the public sector meets its legal responsibility and fiscal liability at the lowest possible cost. The underlying philosophy for these systems of care includes the following:

(1) Mental health care is a basic human service, no less so than food and shelter programs, adult protective services, medical care, education, or vocational training.

(2) Seriously mentally disordered adults and seniors are citizens of a community with all the rights, privileges, opportunities, and responsibilities accorded other citizens.

(3) Seriously mentally disordered adults and seniors usually have multiple disorders and disabling conditions and should have the highest priority for mental health services.

(4) Seriously mentally disordered adults and seniors should have an interagency network of services with multiple points of access and be assigned a single person or team who is responsible for all treatment, case management, and community support services.

(5) The client should be fully informed and volunteer for all treatment provided, unless a danger to self or others or grave disability requires temporary involuntary treatment.

(6) Clients and families should directly participate in making decisions about services and resource allocations that affect their lives.

(7) Local communities are the most knowledgeable regarding their particular environments, issues, gaps, strengths, and opportunities.

(8) State and county government agencies each have responsibilities and fiscal liabilities for seriously mentally disordered adults and seniors.

(9) Mental health services should address the unique needs among the seriously mentally disordered adults and seniors including the needs of minority and ethnic groups, elderly persons, and people with multiple disorders.

(10) For the majority of the seriously mentally disordered adults and seniors, treatment is best provided in the client's natural setting in the community. Treatment, case management, and community support services should be designed to prevent inappropriate removal from the natural environment to more restrictive and costly placements.

(11) Mental health systems of care must have measurable goals and be fully accountable by providing measures of client outcomes and cost of services.

Article 3. Demonstration County Selection and Target Population

5802. (a) The State Department of Mental Health shall issue a request for proposals to develop the demonstration projects no later than February 1, 1989. County demonstration projects shall be

awarded no later than June 1, 1989. Nothing in this part shall be construed to restrict a demonstration county from contracting for part or all services included in the demonstration project proposal. The request for proposals shall include the following specifications:

(1) Proposals may be submitted as a regional system of care by smaller counties acting jointly, independent countywide proposals, and proposals to serve discrete geographic areas within counties. The department shall establish reporting requirements for direct and indirect administrative overhead. Guidelines for reporting administrative charges shall be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs but in no case shall administrative costs exceed those of existing county mental health programs and services.

(2) The demonstration projects shall identify all members of the target population as defined in subdivisions (a) to (e), inclusive, of Section 5831, in their respective region, county, or service area. The proposal shall identify the number of target population clients to be served through the demonstration project. Weight shall also be given to applicant counties to the extent that resources from county agencies other than the mental health department are used to develop interagency services for the target population during the demonstration period.

(3) Proposals shall identify county staff and resources necessary to meet requirements established by the State Department of Mental Health to measure client and cost outcome and interagency collaboration for the system of care.

(b) Proposals must be approved by the board of supervisors and the local mental health advisory board.

(c) Upon selection of the demonstration counties, the State Department of Mental Health shall enter into annual performance contracts with the selected counties. Pursuant to Section 5707.1, the contracts shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.

Article 4. Demonstration County Service Requirements

5803. The State Department of Mental Health shall require demonstration counties to use available resources for the target population to develop the following services, including, but not limited to:

(a) Mental health treatment services, including, but not limited to:

(1) Comprehensive assessment of mental and physical conditions which identify strengths and assets, impairments in functioning and psychosocial stressors.

(2) Medication management including strategies to maximize the client's cooperation with the medication plan.

(3) 24-hour crisis response services including, but not limited to,

hotline, walk-in and mobile crisis response capability, crisis residential and acute inpatient beds, day stabilization, and brief intensive psychotherapy.

(4) In-home treatment services and services provided in other agency environments. This includes but is not limited to jails and homeless shelter programs.

(5) Treatment services for dual-diagnosed persons where the serious mental disorder is the primary treatment focus including, but not limited to, services for persons with secondary diagnosis of drug and alcohol abuse, and jail diversion programs for offenders.

(6) Outreach services when necessary to ensure that services are provided to difficult to treat members of the target population including ethnic minorities, seniors, and persons with multiple disabilities.

(b) Case management services including:

(1) The identified, single point of contact with responsibility for all services, including mobile outreach, that is available 24 hours each day.

(2) Transportation to essential services.

(3) Consultation to individuals and agencies in frequent contact with the client with the intent of maintaining him or her in living and working arrangements, including family, employers, landlords, police, hospitals, and significant others.

(4) Ascertain eligibility and providing access to income support and entitlements, housing, food medical and dental care, vocational services, educational services, community recreational services, legal assistance, and veterans benefits.

(5) Money management as substitute or protective payee.

(c) Community support services including:

(1) Socialization services or drop-in centers.

(2) Family consultation and support services including respite care, education on the nature of the disorder, medications, handling daily problems and crises, identification and reduction of stress, and linkage to regional resource centers, other family support services and advocacy organizations.

(3) Peer support or self-help groups.

(4) Consultations to agencies and individuals in frequent contact with groups of clients with the intent of developing and maintaining a system of care including, but not limited to, housing resources, employers, community and public agencies, and local businesses.

(5) A full range of residential options must be available, from supported independent living through restrictive, supervised settings. In-home support must be available. Demonstration counties shall plan the most effective residential system given the local resources and problems.

(d) Rehabilitative services including:

(1) Social rehabilitative programs that provide assessment of impairments and strengths, and training to develop skills of daily living, money management, personal hygiene, use of public

transportation, social skills, and others.

(2) Vocational rehabilitative services that provide functional assessment of the person's skills, collaborative arrangements with educational and vocational rehabilitation agencies to perform vocational assessments, job readiness skill development, sheltered employment, supported work and on-the-job training opportunities, and evaluation of achievement of goals and skills.

(e) Protection and advocacy services including patient rights services, grievance procedures, and coordination with other existing advocacy services for seniors such as the ombudsman program for seniors.

Article 5. Demonstration County Service Standards

5804. The State Department of Mental Health shall establish service standards that assure members of the target population are identified and can choose, get, and keep environments where they can live, learn, and work. These standards include, but are not limited to:

(a) A systemwide county, region, or area service planning process that is target population based and includes the following:

(1) Estimates the numbers of the target population clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the Mental Health Advisory Board, contractors, the local chapter of the Alliance for the Mentally Ill, client constituency groups, ethnic minority constituency, and others as determined by the director to help identify all of the persons in the target populations and determine their needs.

(2) Provides for services to meet the cultural, linguistic, and special needs of minorities in the target populations which may require outreach for identification. Provides for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to a limited-English speaking ability and cultural differences.

(3) Provides for services to meet the needs of target population clients who are physically disabled.

(4) Provides for services to meet the special needs of seniors, including problems arising from the increased interaction of physical and mental disorders, the need for accurate assessment of the role of brain impairment in psychiatric disorders being treated, and other specialized services.

(5) Provides for methods and procedures to identify underserved members of the target population.

(6) Provides, pursuant to paragraphs (2) and (3) of subdivision (c) of Section 5803, for availability of family support and consultation services within three days of a client's admission to psychiatric inpatient treatment for the first psychotic "break," and requires assignment of a case manager and referral to a peer support or

self-help group prior to discharge.

(b) The average caseload for each case management staff person shall not exceed 25 members.

(c) Each client shall have either a clearly designated mental health case manager or a multidisciplinary treatment team who is responsible for providing or assuring needed services through the course of the illness. Responsibilities include complete assessment of the client's case management needs, development of the client's Personal Services Plan (PSP) and following the client through the system of care, including when in the care or custody of another agency such as the jail or when hospitalized. If the person is admitted to crisis or acute inpatient care the responsible mental health staff shall be notified and included in the member's treatment planning, discharge, and community reentry.

(d) The responsible case manager or the treatment team shall ensure that each client has a single, systemwide personal services plan that provides for the services in subdivisions (a) to (e), inclusive, of Section 5803 specifying methods to be used. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the conservator and, with the consent of the client, consult with the family and other significant persons in the development of the personal services plan. The personal services plan shall be directed at the goals of assuring clients:

(1) Have a reduction, to the extent possible, of the disabling symptoms of mental illness.

(2) Live in the most normal housing feasible in the local community.

(3) Have an adequate income and an appropriate level of work or vocational training.

(4) Are in good health.

(5) Have a support system, with friendships and participation in community activities.

(6) Have freedom from dangerous, addictive substances.

(7) Maintain socially responsible behavior.

(8) Obtain an appropriate level of education and learning.

(9) Receive culturally appropriate services.

(10) For members who reside with their family, the PSP should provide for respite care which is designed to give family needed relief from difficult behavior and decrease the duration of hospital stay.

Article 6. Demonstration County Interagency Collaboration

5805. The State Department of Mental Health shall require demonstration counties to develop systems of interagency collaboration which identify joint responsibilities for services specified in Section 5803 and achievement of the client and cost outcome goals and interagency collaboration goals pursuant to

Section 5834. Each demonstration county shall accomplish the following:

(a) The local mental health director shall form or facilitate the formation of a county interagency policy and planning committee. Members may include directors or key policymaking staff from the local mental health department, the local mental health advisory board, and other agencies such as social services, the sheriff's department, superior court, county alcohol and drug programs, probation services, local state and county housing authorities, and other key state and county agencies whose service policies will significantly affect members. The duties of the committee shall include, but not be limited to:

(1) Identify those agencies that have a significant joint responsiblity for the target population and ensure collaboration on countywide planning and policy.

(2) Identify gaps in services to members of the target population, develop policies to assure service effectiveness and continuity, and set priorities for interagency services.

(3) Implement public and private collaborative programs whenever possible to better serve the target population.

(4) Provide for a countywide interagency case management council whose function is to coordinate resources to target population members who are using the services of more than one agency concurrently.

(b) The local mental health director shall develop written interagency agreements or memoranda of understanding with agencies identified in paragraph (a). Written interagency agreements or memoranda shall specify jointly provided or integrated services, staff tasks and responsibilities, facility and supply commitments, budget considerations, and linkage and referral services. The agreements shall be reviewed and updated annually. Agreements may be established with the following:

(1) Housing resource agencies, including federal Housing and Urban Development Agency, city and county planning departments with access to housing and community development funds, local chapters of residential care provider organizations.

(2) Health and entitlement agencies including public sector agencies administering health funds for medically indigent adults and Medi-Cal eligibility services, public health departments, county drug and alcohol departments, public guardian or conservator, county welfare departments, elder abuse agencies, senior nutrition, health and home health care programs, and aging network representatives, including the area agency on aging.

(3) Educational institutions and agencies such as special education, adult education programs, community colleges, colleges and universities, city and county recreation and parks departments, and senior multipurpose service centers.

(4) Rehabilitation programs and agencies such as the Department of Rehabilitation, Private Industry Council, Job Training Partnership

Act programs, and regional resource centers for the brain-impaired.

(5) Criminal justice agencies such as county jails, local police and sheriff departments, courts, and probation.

(6) Ethnic specific agencies.

(c) Joint resources and services not specified in the interagency agreements but needed by the target population shall be purchased from other public, private nonprofit, or private agencies.

Article 7. State Interagency Collaboration

5806. The Secretary of Health and Welfare shall establish a State Human Services Interagency Task Force to coordinate statewide policy and planning of county interagency services for the members of the target population.

(a) The task force shall include representatives of the state departments which have responsibility for meeting the needs of the target population. The task force shall also include representatives from the Assembly Health Committee, the Assembly Ways and Means Committee, the Senate Health and Human Services Committee, the Senate Appropriations Committee, and other appropriate persons, as determined by the secretary.

(b) The duties of the task force include, but are not limited to, the following:

(1) Ensure the collaboration of state level human services agencies to meet the needs of the target population.

(2) Develop interagency agreements as necessary to facilitate collaboration among state and local agencies, including the sharing of data and information on the target population.

(3) Ensure ongoing communication between the executive and legislative branches of government relative to meeting the needs of the target population.

Article 8. Requirement to Collect Reimbursements

5807. In order to offset the cost of services, demonstration counties shall be required to collect reimbursement for services during the demonstration period from the following sources:

(a) Fees paid by members or their families, which shall be the same as patient fees established pursuant to Section 5718.

(b) Fees paid by private or public third-party payors.

(c) Categorical funds from programs established in state or federal law, for which persons with serious mental disorders are eligible.

(d) The department shall immediately seek to obtain authorizations which may be required to obtain federal financial participation for services rendered through demonstration counties.

CHAPTER 2. AN INTEGRATED SERVICE SYSTEM FOR THE SERIOUSLY MENTALLY DISORDERED

Article 1. Legislative Findings and Intent

5808. The Legislature finds that in the two decades since enactment of the Lanterman-Petris-Short Act utilization of state hospitals has been substantially reduced. However, the intended transition to a locally operated effective comprehensive system of services for persons with severe mental disorders has not yet been achieved.

Studies by the Legislature and the Task Force for the Seriously Mentally Ill have documented fundamental defects in the organization and financing of programs for persons who prior to 1969 would have been committed to state hospitals, including the following:

(a) Responsibility and accountability for treatment, care, and rehabilitation is scattered among too many independent agencies, providers, and levels of government.

(b) Federal, state, and county funds are allocated to numerous autonomous agencies and cannot be readily consolidated or used in flexible ways to meet an individual's need. Clinical effectiveness is frustrated because professionals responsible for prescribing and giving treatment and rehabilitation have little or no authority to direct the allocation of resources.

(c) Few standards govern the service system. The mere existence of many different programs does not guarantee that persons with complex changing needs will receive continuity of attention and timely, useful services.

(d) Clients and their families have too few opportunities to participate in determining the treatment, care, and resource allocations that will affect their lives.

(e) The quality and availability of essential services varies greatly among the 58 counties.

(f) The mandated functions of county mental health departments have expanded without a practical plan for financing the growth of these multiple responsibilities. Resources have not followed clients in the shift from state hospital to community-based responsibility for the seriously mentally disordered.

5809. (a) The purposes of this part are the following:

(1) To establish a pilot model to test and evaluate an integrated service system for a limited number of persons with serious mental disorders.

(2) To provide the State Department of Mental Health with an evaluation of proposed standards for the organization and financing of community services for the seriously mentally disordered and for redirecting expenditures pursuant to the Short-Doyle Act (Part 2 (commencing with Section 5600)) if necessary to improve standards of service provided by counties, as authorized in Sections 5600.5 and

5600.6.

(3) To provide counties with information about alternative ways of organizing and allocating resources for services for the seriously mentally disordered.

(4) To provide the federal government with an opportunity to test a new method of consolidating the funding of federal, categorical human service programs.

(b) The pilot integrated service system established by this part is based upon features found in exemplary human service delivery systems in California and other states.

It is the intent of the Legislature that by this part California may evaluate proposed new methods of organizing and financing services for the seriously mentally disordered which may, over the next decade, result in cost-effective system of comprehensive services, responsive to the needs of the seriously mentally disordered and their families, in every part of the state.

It is the intent of the Legislature that a pilot agency maintain a continuity of services and financial responsibility for their members.

Article 2. Establishing Pilot Agencies

5810. The State Department of Mental Health shall establish at least two, but not more than six, pilot integrated service agencies for the seriously mentally disordered beginning July 1, 1989, and ending June 30, 1993, hereafter referred to in this part as pilot agencies.

Article 3. Pilot Agency Selection and Funding Policy

5811. (a) No later than February 1, 1989, the director, with advice from the advisory committee established pursuant to Section 5832, shall prepare, publish, and disseminate a request for proposals for four-year contracts to operate pilot agencies. The panel of advisers shall participate in the review of proposals and shall advise the director prior to his or her selection of contractors to operate four-year pilot agencies. Pilot agency performance contracts shall be awarded no later than June 1, 1989.

(b) The director shall prepare a method for rating proposals to assure objectivity and selection of the best qualified applicants.

(c) It is the intent of the Legislature that pilot agencies be used to test and evaluate different methods within the limitations established by this chapter. It is further the intent of the Legislature that pilot agencies be selected in different regions of the state. At least one pilot agency shall be established in a rural region.

(d) When selecting from among proposals of equal merit, preference shall be given to proposals emanating from counties that receive lower per capita state support for mental health services.

(e) There shall be no requirement for the redirection of county funds to support pilot agency activities. Weight shall be given to proposals which document host county's willingness to provide

resources in support of pilot agencies. It is intended that the provision of host county resources to the pilot agency not diminish services to the county mentally disordered population not served by the pilot agency.

5812. (a) Any public or private agency, organization, or corporation, including a county, may respond to the request for proposals and be considered as a contractor to operate a pilot agency. Two or more counties, agencies, organizations, or corporations may respond jointly. A pilot agency or its satellite shall be located within a reasonable distance to its members.

(b) The director shall award contracts effective July 1, 1989, to implement the four-year pilot agencies. Each contract shall ensure that the number of persons in the pilot agencies remain constant and that the population served meets the criteria established in this part. No pilot agency shall serve more than 200 clients or fewer than 100 clients.

Contracts entered into pursuant to this part shall start July 1, 1989, and end June 30, 1993, unless the director or the contractor terminates the contract earlier.

Article 4. Policy Committee

5813. (a) Agencies other than county mental health departments applying to operate a pilot agency shall include in their proposals a statement of agreement to establish an integrated service policy committee, consisting of 15 members, with no other functions than to assist the governing board of the applicant agency in setting policies and overseeing the operation of the pilot agencies. County mental health department applicants may delegate these functions to county mental health advisory boards established pursuant to Section 5604.

(b) The integrated service policy committee shall consist of persons with demonstrated interest in and knowledge of serious mental disorders, shall reflect the ethnic characteristics of members to be served, and shall not have a financial conflict of interest as a result of membership on the policy committee, except as consumers of services of the pilot agency. When selecting persons to serve on the committee, the governing board of the applicant agency shall seek recommendations from appropriate professional and consumer organizations in the community in which the pilot agency is to be located.

(c) One-third of the members of the committee shall be persons who are receiving services from the pilot agencies or persons who have experienced serious mental disorders, as defined in subdivisions (a) to (d), inclusive, of Section 5831.

One-third of the members of the policy committee shall be persons whose children, spouses, siblings, or parents are receiving services from the pilot agencies or persons whose family members have or have had a serious mental disorder, but are not receiving services

from the pilot agencies.

One-third shall be persons with demonstrated expertise in management or the provision of services for persons with severe mental disorders.

(d) The policy committee shall participate in making decisions, including, but not limited to, establishing program policies and minimum personnel qualifications, monitoring expenditures, participating in grievance procedures, and evaluating agency operations. Final authority and responsibility for decisions which affect operation of the pilot service agency remains with the governing board.

Article 5. County Letter of Understanding

5814. In order to assure cooperation with county governments in communities in which pilot agencies are established, applications shall be approved by the local mental health advisory board and applicants shall include in their proposal to operate a pilot agency, a letter signed by the chairperson of the county board of supervisors as follows:

To the Director of the California State Department of Mental Health, from the County of _____.

After consultation with the Director of Mental Health this county affirmatively approves the establishment within the county of a pilot integrated service agency for the seriously mentally disordered. Be it understood that by this statement our board of supervisors is not endorsing any particular proposal which may emanate from this county in response to the state's request for competitive proposals to operate a pilot integrated service agency for the seriously mentally disordered.

We understand that if a pilot agency is established within this county, there will be no required county match, redirection of existing mental health resources, or other costs to the county now or in the future for the pilot agency.

We further understand that establishment of a pilot agency within our county would be an expansion of services for the mentally disordered and is not intended to supplant or result in any reduction in the county's support for other services for the mentally disordered.

Signed: _____

Chairperson, Board of Supervisors

Article 6. Responsibilities and Service Requirements

5815. In addition to other requirements as may be included in the department's request for proposals, pilot agencies shall have the following responsibilities and perform the following functions.

(a) Serve a specified number and representative mix of persons,

hereafter referred to in this chapter as "members," as further defined in subdivisions (a) to (d), inclusive, of Section 5831.

(b) Prepare a personal service plan, on an annual basis, with the participation of all of the following:

(1) The member and the member's conservator or guardian, as appropriate.

(2) Members of the staff team, as defined in subdivision (a) of Section 5816.

(3) Family members who know the member, if agreed to by the member.

(4) Any person of the member's choosing. The personal services plan shall include goals, specific objectives, and the strategies and services needed to achieve goals and objectives. The personal services plan shall include an assessment of the member's strengths, capabilities, and interests. The personal service plan is a service contract between the member and the agency. The member, or the member's legally designated conservator or guardian on behalf of the member, shall agree by signature to each service element of the plan. There shall be mutual agreement to each and every element of the plan. Acceptance of one service shall not be contingent upon acceptance of another service. Personal service plans may be modified by agreement between the agency and the member, or his or her conservator or guardian on behalf of the member, at any time as required.

(c) Maintain records as may be required by the department regarding each member's social health and mental health needs, services provided, and costs of services. Records shall be available to the member for review and comment, except for records state or federal law may require to be kept confidential.

(d) Ascertain the member's eligibility for all health, mental health, housing, rehabilitation, social service, income maintenance, and other publicly funded services.

(e) Secure as needed, by providing directly or through purchase of services or other means, appropriate services as specified in the personal service plans of members, including, but not limited to:

(1) Diagnosis and assessment of mental and physical conditions.

(2) Treatment of mental disorders, including medication.

(3) Crisis response, which shall be available 24 hours a day, seven days a week.

(4) Self-help and peer support services.

(5) Emergency care.

(6) A continuum of residential services.

(7) Vocational assessment, supported employment, and other employment services.

(8) Socialization and recreation.

(9) Transportation for essential services.

(10) Daily living skills training.

(11) Information, counseling and other services for the parents, children, or other relatives of members.

(12) Respite for families and for members.
(13) Legal assistance and patients' rights services.
(14) Money management, including substitute payee services.
(15) Consultation with landlords and employers.
(16) Hospitalization in community or state hospitals.
(17) Drug and alcohol rehabilitation.
(18) Formal education including high school, college or vocational.
(19) Motivational activities to encourage educational, vocational, and community participation.
(20) Physical, nutritional, and dental health care.
(21) Income maintenance.

(f) Provide or purchase alternative services appropriate to the needs of the enrollee, only if the pilot agency is unable to provide or purchase any service as specified in the service plan, and only upon approval of the policy committee established pursuant to Section 5813.

(g) Maintain regular, personal contact with members, providing assistance whenever needed, in the home, on the streets, or in residential facilities, hospitals, or jails.

(h) Provide consultation to service providers to improve the quality of services for members; provide information to school personnel, police, judges, and community agencies and professionals to enable them to cooperate with and utilize the integrated service agency.

(i) Assist in creating new programs when necessary services are inadequate or unavailable, including services to ethnic minorities.

Article 7. Request for Proposals Requirements

5816. In addition to any other requirements which may be included in the department's request for proposals, proposals to operate a pilot agency shall include the following:

(a) A description of the staff team that will conduct the comprehensive services defined in Section 5815, the amount of time each staff person will devote to working for the pilot agency and the staffing arrangements that will assure compliance with the programmatic requirements of this part.

Persons employed or under contract to provide services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed to provide services for which a license is required unless the person possesses a currently valid license.

Each staff team shall include, at a minimum, a psychiatrist, a psychologist, a social worker, and a registered nurse with the formal training and the practical experience to work effectively with clients with serious mental disorders.

The staff team may include unlicensed personnel to provide services for which licenses are not required.

To the fullest extent feasible members should be involved in self-help organized by members, peer support, and other activities in support of the purposes of the pilot agencies on a paid or an unpaid basis. Pilot agencies are encouraged to make the fullest possible use of all community resources, including, but not limited to, the use of volunteers to raise funds; provide technical assistance to member-operated businesses; or assist with the day-to-day operations of the agency.

Nothing in this part shall preclude members from retaining their own therapists consistent with Section 5815. The agency shall have the option of paying or not paying for the cost of any services secured independently by the client or the client's family, and shall make every effort to collaborate with the providers of these services to prevent duplicative or conflicting efforts.

(b) A plan for serving minority members. The plan should include estimates of the numbers of minority members to be served and the ways by which the agency intends to respond to the language and cultural needs of minority members. It is the intent of the Legislature that the membership of each agency approximate the racial and ethnic mix of the general population of the community in which members of the agency reside.

(c) A plan for the provision of services described in Section 5815. The plan shall include methods to be used, including identification of services to be provided directly by the pilot agencies and those to be secured by contract or other means.

(d) If the applicant owns or operates a hospital or residential facility and intends to utilize the facility for purposes of the pilot agencies, the plan should identify the anticipated cost of this use and justify the cost effectiveness. The plan should also specify the conditions under which other hospital or residential facilities not owned or operated by the applicant will be used, and the anticipated amount of use.

(e) A plan describing the residential resources the applicant intends to use, ranging from crisis residential facilities to independent living arrangements. The plan for residential services should describe methods to be used to assure that members are assisted and supported to live as independently as possible, outside specialized institutions or facilities for the mentally disordered. For members who may require care in specialized institutions or residential facilities, the plan shall describe methods to be used to assure that these facilities shall be staffed with sufficient expertise to assist members in achieving the objectives in their personal service plans, and that the daily activities of the members shall be constructive, purposeful, productive, and consistent with their intellectual, cultural, and personal interest.

(f) The plan for residential services should also include provisions for offering consultation, technical assistance, and other support as needed, to the operators of residential services for members or their family caregivers.

(g) A plan for the provision of services for members who may require services on an involuntary basis under the provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000).

The plan shall include agreements with hospitals from which pilot agencies purchase hospital services. Payment for hospital services shall be an obligation of the pilot agency if a member is hospitalized involuntarily, regardless of the existence of a payment agreement.

All of the following persons shall participate in determining the treatment and discharge of members placed voluntarily or involuntarily in local or state hospitals:

(1) The director of the pilot agency or his or her designee.

(2) The member or the member's conservator or guardian, if any.

(3) The attending staff responsible for treatment of the member within the local or state hospital.

(h) A plan for services to members admitted to the pilot service agency following a first psychotic "break." The plan shall include the provision of family information and counseling services pursuant to paragraph (11) of subdivision (c) of Section 5815, within three days of a member's admission. If admission procedures are initiated while the person is in a psychiatric inpatient facility, the plan shall include assignment of a case manager and referral to a peer support or self-help group prior to discharge from the psychiatric inpatient facility.

(i) A plan for the provision of vocational skills training and employment services. The plan shall include reference to the employment, educational, and skills training services to be provided directly by the pilot agencies and those to be secured by purchase of service or other means. A pilot agency shall utilize community college programs for the seriously mentally disordered where available and shall offer consultation to community colleges in the development of these programs.

Article 8. Pilot Agency Target Population

5817. The pilot agencies shall serve members of the target population, as defined in subdivisions (a) to (d), inclusive, of Section 5831.

Article 9. Pilot Agency Membership Provisions

5818. (a) Membership to a pilot agency may result from outreach activities of the pilot agency, by self-referral of persons with serious mental disorder and by referral from friends, family members, conservators, judges, state and local hospitals, county mental health agencies, or other agencies or professionals. The pilot agencies shall maintain a record of all referrals for membership, including those which have been rejected.

(b) For purposes of selecting members for the pilot system, the

State Department of Mental Health shall establish an independent selection panel comprised of representatives from the Integrated Service Agency, the local county mental health department, and the State Department of Mental Health. The selection panel shall determine who is eligible for admissions to the pilot agency. Persons admitted shall be a representative sample of seriously mentally disordered persons in the county that meet the target population criteria pursuant to subdivisions (a) to (d), inclusive, of Section 5831.

5819. No later than March 15, 1989, the department shall do all of the following:

(a) Establish a method for screening or auditing by the department to assure that pilot programs are serving members, as defined in subdivisions (a) to (d), inclusive, of Section 5831, including ethnic minorities and minors. The department's screening or auditing activities shall include monitoring to assure that pilot agencies are accepting and are not rejecting clients with severe mental disorders requiring extensive treatment and rehabilitation services.

(b) Establish a method for determining admission criteria for persons with a dual diagnosis of serious mental illness and substance abuse, mental retardation, or other physical or mental disability.

(c) Service contracts, as defined in Section 5815, with each member shall be for a minimum period of six months. Contracts shall hold the pilot agency responsible for the provision of services, pursuant to the member's personal service plan, and shall hold the member responsible for participating in the programs and services specified in the member's personal service plan.

5820. (a) Members of a pilot agency shall be subject to the same laws as all other persons, including the provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000), governing involuntary treatment.

If, after all other alternatives have been exhausted, a pilot agency finds that a member needs to be served involuntarily, the director of the pilot agency may be designated as authorized to carry out Section 5150 subject to the standard policies and procedures of the host county or counties.

This authority shall be discussed with members when they become members. They shall also be advised of their legal rights and of the availability of patients' rights to services.

(b) If a member is involuntarily detained by anyone, under the provisions of the state's mental health law, the pilot agencies shall be notified. As the member's service and financial agent, the pilot agencies shall be involved in the determination of payment, treatment, and discharge of the member pursuant to Section 5816.

(c) A member of a pilot agency may terminate membership at any time. In these cases, the pilot agencies shall make every effort to assist the member in finding alternative services and, if necessary, shall pay for these services until a new member has been admitted to fill the vacancy, after which the agency's financial responsibility

for the former member shall cease. Alternative services shall be one of the services described in Section 5815 and payment shall not exceed established rates for those services pursuant to subdivision (a) of Section 5822.

If a member who has terminated membership wishes to return, the pilot agency shall make every effort to resume the provision of services to the member.

5821. (a) Members of a pilot agency shall have all the protections and rights guaranteed to mental health clients in Part 1 (commencing with Section 5000) and Part 2 (commencing with Section 5600) of this division, and in Public Law 99-319, the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C.A. Secs. 2471, 10801, 10802–10807, 10821–10827, 10841, and 10851).

Members shall have access to the services of county patients' rights advocates as provided in Chapter 6.2 (commencing with Section 5514) of Part 1.

Members shall be notified orally and in writing regarding their legal rights at the time of commencing their membership with the pilot agencies.

(b) In addition to all rights established in existing law, the director shall, with the advice of the panel of advisers, establish requirements for additional protections and grievance procedures to the extent permitted by federal law as may be necessary to assure that the needs and concerns of members with respect to a pilot agency are heard and resolved in a fair manner. All requirements shall be included in the contract between the department and the pilot agencies.

Article 10. Service Delivery Provisions

5822. (a) Pilot agencies shall negotiate with providers for the amount, type, and quality of service needed. Within the limit of funds available, pilot agencies may negotiate rates of payment to providers using procedures for negotiated rates established in Section 5705.2.

(b) A pilot agency shall not contract with any provider if the direct result of the contract is a reduction of necessary services for persons with serious mental illness who are not members of the pilot agency.

(c) Pilot agencies shall recommend to the director modification of any law, regulation, or policy which interferes with the provision of effective services. The director shall consolidate these recommendations and report them annually to the Secretary of Health and Welfare and to the appropriate legislative committees.

Article 11. Participation in Information and Evaluation System

5823. (a) Pilot agencies shall participate in the information and evaluation system pursuant to subdivision (c) of Section 5833 and

subdivision (b) of Section 5836. Each pilot agency shall be provided a personal computer and the software to the extent necessary to produce at least the following information:

(1) The number of members who are eligible for various state and federal sources of funding.

(2) Continuous updates on the implementation of each member's personal service plan.

(3) A cumulative file of services received and expenditures.

(4) Contract compliance reports for the department.

(5) Reports required by the independent program evaluator.

(6) Current files on all expenditures, financial commitments, and budget status.

(b) The department shall provide pilot agencies with the hardware and software programs and training needed to produce standardized information for a centralized finance and program reporting system.

Article 12. Other Research and Evaluation Activities

5824. In addition to the systemwide evaluation pursuant to Chapter 5, pilot agencies may, with the approval of the director, conduct their own evaluation activities. Pilot agencies may develop collaborative projects with colleges and universities for the purpose of evaluating new diagnostic, treatment, and rehabilitative methods, and for the purpose of providing training opportunities for students in the methods of an integrated service system. Members shall have the right to accept or refuse participation in the research projects.

Article 13. Funding Level and Performance Contracts

5825. Unless requested by the department and approved by the Legislature, the total annual amount requested in each fiscal year for the budgets of the contracted pilot agencies, serving no more than 400 clients, shall not exceed either one-fourth the average annual estimated cost of serving 400 patients in state hospitals in the same year, or the average annual estimated cost of serving 400 clients in the conditional release program in the same year, whichever is less. The base budget for the integrated service system shall not include, and is in addition to, any income received by clients from SSI/SSP, SSDI, or other public income maintenance cash grants.

Pilot agencies shall be funded through annual performance contracts with the department. The department shall negotiate performance contracts to:

(a) Provide for the prepayment of a fixed capitated amount for all members to be served per annum without regard to the type or amount of services to be provided to any individual member. The department may contract for different prepaid amounts with each of the pilot agencies. Funding amounts may be adjusted in future years consistent with Section 5828.

(b) Provide pilot agencies with periodic advance payments for a specified number of members. No advance payment shall exceed 25 percent of the total annual contracted amount, to be paid when performance pursuant to stipulation of the contract has been affirmed by the department. Pilot agencies shall be evaluated at least once annually, and shall be monitored regularly by the department.

(c) Provide the department with all the information needed to evaluate the financial and program performance of the pilot agencies.

5826. The department shall organize and provide training to pilot agency personnel on a regular basis. Training shall include consultation with, and presentations from, experts with experience in the operation of model systems of service for the seriously mentally disordered in California and other states.

5827. (a) Notwithstanding any other provision of state law, absent a finding of fraud, abuse, or failure to perform as contracted, no restrictions, other than any contained in the contract, shall be placed upon a pilot agency's expenditures or retention of funds received pursuant to this part.

(b) Should the department contract with one or more profitmaking organizations for the purposes of this part, the contract or contracts shall include a limitation on the percentage of the total annual contracted amount that may be retained as profit.

Article 14. Financing

5828. (a) In order to offset the cost of services, pilot agencies shall collect reimbursement for services during the pilot period from the following sources:

(1) Fees paid by members or their families, which shall be the same as patient fees established pursuant to Section 5718.

(2) Fees paid by private or public third-party payers.

(3) Categorical funds from programs established in state or federal law, for which persons with serious mental disorders are eligible.

(4) The department shall immediately seek to obtain authorizations which may be required to obtain federal financial participation for services rendered through the pilot agencies.

(b) It is the intent of the Legislature to maximize the use of federal funds currently available only in separate categorical programs for the purposes of supporting the costs of an integrated system. The Secretary of Health and Welfare is hereby authorized to transfer each fiscal year during which the pilot agency is in effect those funds identified in the State Departments of Health Services, Social Services, Mental Health, Alcohol and Drug Programs, and the Departments of Rehabilitation and Housing and Community Development for which seriously mentally disabled persons are eligible. To the extent that the secretary does transfer funds, the amount transferred shall not exceed the average amount expended

on 400 persons with serious mental disorders by each separate categorical program, including costs involved in determining eligibility and other administrative functions.

(c) The secretary may delegate eligibility determination to pilot agencies.

(d) The Secretary of the Health and Welfare Agency may waive any state regulatory obstacles to the integration of public responsibilities and resources as required herein, for the members within the pilot system.

(e) The Secretary of Health and Welfare, and those departments designated as single state agencies administering federal programs, shall make every effort to secure federal waivers and any other changes in federal policy or law necessary to assure full implementation of this section.

(f) The Secretary of Health and Welfare shall undertake studies to assess the level of services provided for the severely mentally ill by all departments within the Health and Welfare Agency. These studies shall include the source and amount of funding expended on this population, the types of services provided, and the eligibility requirements for each program. The secretary shall also make recommendations regarding the feasibility of consolidating these state and federal categorical funds and identify any federal statutory and regulatory obstacles to the integration of public responsibilities and resources for pilot services agencies.

5829. The secretary shall submit a report to the appropriate legislative committees on an annual basis summarizing the actions taken by the secretary pursuant to Section 5828.

Article 15. Contingency Funding

5830. (a) The director shall set aside 10 percent of the budget request for the budgets for the fiscal years 1989–90, 1990–91, 1991–92, and 1992–93 for contingencies.

Contingency expenditures may include the following:

(1) Small loans or grants to pilot agencies for the initial costs of establishing new services needed by members.

(2) Emergency assistance to pilot agencies for unusual unanticipated costs.

(b) The department shall develop policies for resolving problems related to unanticipated catastrophic costs. The policies may include the purchase of private insurance.

(c) Notwithstanding any other provision of state law, funds allocated to the department for the purposes of this part shall remain with the department until the purposes for which they have been appropriated by this part have been achieved.

CHAPTER 3. DEFINITION OF SERIOUS MENTAL DISORDER, TARGET POPULATIONS, and HIGH RISK

5831. (a) For purposes of this part, "serious mental disorder" means a mental disorder which is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include schizophrenia, as well as major affective disorders or other severely disabling mental disorders. This section shall not exclude dual-diagnosed persons with a primary diagnosis of a serious mental disorder and secondary diagnoses of substance abuse or developmental disability or other physical or mental disorder.

(b) The State Department of Mental Health shall define the "target populations of seriously mentally disordered adults and seniors" who have priority for services for the demonstration counties and pilot service agencies, hereafter known as the target population. It shall promulgate a document with specific criteria, including the requirement that a member of the target population shall meet all three of the following:

(1) A mental disorder as defined by the Diagnostic and Statistical Manual III-R, other than a primary substance use disorder or developmental disorder.

(2) As a result of the mental disorder the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms. "Functional impairment" means being substantially impaired as the result of a mental disorder in one of the following: independent living, social relationships, vocational skills, or physical condition.

(3) As a result of the functional impairment the person is eligible for public assistance, services, or entitlements or is otherwise legally a public responsibility or fiscal liability.

(c) This target population explicity includes ethnic minorities and other disadvantaged persons.

(d) Target population members include, but may not be limited to, persons who are:

(1) Criminal justice offenders.

(2) Homeless.

(3) Receiving ongoing public assistance related to their severe mental disorder, including, but not limited to, SSI/SSD, General Relief, AFDC, and Unemployment Insurance.

(4) In local acute inpatient facilities, state hospitals, or locked skilled nursing for the psychiatrically disordered.

(5) Receiving public services related to their severe mental disorder, including, but not limited to, the public guardian/conservator, regional resource center, or adult protective

services.

(6) Require acute treatment as a result of a first psychotic "break" and who are expected to meet target population requirements within this section.

(e) Demonstration counties shall also provide services to persons at "high risk" of entering the target population. "High risk" means the person requires acute psychiatric inpatient care or outpatient crisis intervention because of a mental disorder with symptoms of psychoses, suicidality, or violence, and clinical judgment determines with reasonable certitude that without treatment the client will decompensate to the target population.

(f) Demonstration counties shall be required to use demonstration project funds provided for in this part to develop services and programs for the target population. Counties shall also be required to commit to the demonstration project those state and local funds already identified with existing services to the target population.

(g) Nothing in this part shall be construed to prohibit the expenditure of existing categorical funds to identify and serve the target populations except as the funds are explicitly intended for nontarget populations.

CHAPTER 4. ADVISORY COMMITTEE

5832. (a) An advisory committee is hereby established to advise and consult with the Director of Mental Health on all aspects of the demonstration county and pilot service agency projects.

(b) The committee shall include representatives from the Conference of Local Mental Health Directors, the California Council on Mental Health, the Organization of Mental Health Advisory Boards, the California Alliance for the Mentally Ill, the California Network of Mental Health Clients, the Public Guardian's Association, the California Council of Community Mental Health Contractors, the Task Force for the Seriously Mentally Ill and representatives from organizations or groups representing older adults and ethnic minorities, and other appropriate constituency and consumer groups as determined by the Director of Mental Health. The panel of advisers shall also include a psychiatrist and a social worker, with distinguished experience in the provision of services to persons with serious mental disorders, who shall be appointed by the Senate Rules Committee; a nurse and a psychologist, with distinguished experience in the provision of services to persons with serious mental disorders, who shall be appointed by the Speaker of the Assembly; and two persons who have experienced mental disorders, as defined in subdivisions (a) to (e), inclusive, of Section 5831, and two family members, as defined in subdivision (d) of Section 5813, who shall be appointed by the Governor. No person shall be appointed to the panel of advisers who would have a financial conflict of interest as a result of the appointment

(c) The functions of the advisory committee may include, but are not limited to, assistance in the development of the request for proposals, consultation to the demonstration counties and pilot agencies, reviews of the annual progress reports, and participation in determining if demonstration counties and pilot agencies have provided substantial progress toward the goals listed in Section 5834, and other duties as determined by the Director of Mental Health.

(d) The director or his or her designee shall chair meetings of the advisory committee, which shall be called at his or her discretion at least four times annually. Panel members shall be reimbursed for necessary travel and per diem costs at customary state rates.

CHAPTER 5. CLIENT AND COST OUTCOME EVALUATION

5833. (a) It is the intent of the Legislature that client and cost outcome and interagency collaboration for demonstration counties and pilot agencies be evaluated and compared.

(b) A primary purpose of this part is to evaluate the feasibility of expanding the pilot integrated service agencies or the demonstration county interagency systems for seriously mentally disordered adults and seniors and to utilize the conclusions of an evaluation for the purpose of modifying state policies.

(c) In order to facilitate comparison of client and cost outcomes, demonstration counties and pilot agencies shall conform to the reporting requirements of the State Department of Mental Health, including those of the Client Data System, the Cost Reporting/Data Collection Manual and the Short-Doyle requirements for clinical recordkeeping, and any other data collection and reporting requirements deemed necessary by the department.

(d) To assure an adequate comparison with the existing public mental health system, the department may select a nondemonstration comparison entity for each pilot agency and demonstration county. For pilot agencies, the host counties shall be the comparison entities. For demonstration counties, a comparison county which reflects demographics and other characteristics of the demonstration county shall be selected as a comparison entity.

5834. The State Department of Mental Health shall define and establish client and cost outcome and interagency collaboration goals and negotiate the expected level of attainment with demonstration counties and pilot agencies. In addition, the department shall evaluate the impact of the pilot agencies on target population members in the county that are not served by the pilot agencies. The actual outcomes and evaluation findings shall be the basis for estimating the expected client and cost and interagency collaboration benefits if either county interagency systems of care or integrated service agencies were implemented statewide. Expected levels of attainment shall be specified for the following goals and other goals that may be identified by the department:

(a) Client improvement/maintenance outcome goals that

measure the benefit of services:

(1) Reduction in the rate at which clients use state hospital bed days.

(2) Reduction in the rate at which clients use local acute inpatient bed days.

(3) Decrease in the rate at which clients are admitted to acute care facilities under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000).

(4) Reduction in the rate at which clients spend time in the local jails.

(5) Increase in the rate at which clients receive income support entitlements.

(6) Increase in the rate at which homeless persons accept services.

(7) Increase in the rate at which clients remain in the least restrictive, most normal housing consistent with their capabilities for at least one year.

(8) Increase in the rate at which clients are actively engaged in the community support network as measured by participation in peer support or self-help groups or socialization center programs, or other meaningful social support activities.

(9) Increase in the rate at which clients are participating in a rehabilitation program, as measured by membership in a psychiatric rehabilitation program, a supported employment program or a competitive employment program for at least one year.

(10) Increase in the rate at which multiproblem clients, including those with a secondary diagnosis of substance abuse and seniors with special needs, are receiving a comprehensive program of treatment that addresses their dual-diagnostic needs.

(11) Minimize the rate at which clients are more dependent and living in more restrictive environments.

(12) Decrease in the rate at which clients with a secondary diagnosis of substance abuse are abusing dangerous drugs.

(b) Cost savings, cost avoidance, and cost-effectiveness outcomes shall measure any short-term or long-term cost savings and cost avoidance achieved:

(1) All major public costs for clients, including mental health, housing social services, vocational rehabilitation, health services (including Medi-Cal), and adult protective services and public guardianship.

(2) Costs for crisis residential, local acute, and state hospital care.

(3) Costs for criminal recidivism.

(4) Other short-term and long-term costs related to client outcome goals.

(c) System of care effectiveness outcome goals shall measure the extent to which the target population is being served.

(1) The percentage of clients who meet the target population definition.

(2) The percentage of noncategorical local assistance funds that are spent on nontarget populations.

(3) The extent to which the joint responsibilities specified in the interagency agreements have been fulfilled.

(4) The extent to which ethnic minorities are served in proportion to their numbers in the general population.

5835. The State Department of Mental Health shall assign technical and program staff and resources with assistance as necessary from private contractors to work jointly with demonstration counties and pilot agencies in developing a model for client outcome evaluation that will provide full accountability for client and cost outcomes and interagency collaboration at the state and local level. The model may include, but not be limited to, the following:

(a) Identify and collect baseline measures and other information needed to determine progress toward client and cost outcome goals and interagency collaboration goals during the demonstration project.

(b) Determine the extent to which target population members including seniors, ethnic minorities, and persons with multiple disabilities are underserved.

(c) Evaluate the demonstration project caseload standards and make recommendations for statewide standards.

(d) Develop methods to monitor the entry, movement, and exit of an individual client in the system of care in order to determine the cost and outcome of treatment over time. Identify statutory and regulatory changes needed to track clients across programs.

(e) Develop client and cost outcome measures that can be externally monitored at both the state and county level and reported on a regular basis.

(f) Develop methodologies that determine the average cost to serve each client in the target population and also estimate the maximum number of persons in the target population that each demonstration county can serve with available project resources. Methodologies shall permit estimates of resources needed to serve members of the target population in all counties.

5836. (a) No later than 180 days from the effective date of this part, the director shall contract with one or more qualified persons or organizations to assist the department in fulfilling its responsibilities pursuant to Section 5834 and Section 5835. Assistance provided by the contractors may include, but is not limited to:

(1) Designing evaluation and comparison methodologies.

(2) Monitoring implementation of the methodologies.

(3) Providing oversight and technical assistance on demonstration projects aspects pertaining to evaluation and comparison of those projects.

(4) Analysis of outcome data.

(b) The evaluator shall secure approval of the director and his or her advisory board regarding the issues and questions to be included in the comparison and methodology to be used.

(c) The contractor shall provide periodic independent progress

reports at least annually, and shall provide an independent report addressing the result of the evaluation which shall be included in the final report of the director pursuant to Section 5837.

(d) As necessary, the contractor shall assist the department in designing the information system that will permit continuous monitoring of client and cost outcomes and interagency collaboration for both the demonstration counties and pilot agencies. To the extent possible, this information system shall be compatible with existing data collection systems within the State Department of Mental Health.

5836.1. Notwithstanding any other provisions of law, nothing shall preclude the department from entering into sole-source contracts to fulfill its responsibilities pursuant to Article 11 (commencing with Section 5823) of Chapter 2, and this chapter.

5837. (a) The State Department of Mental Health shall monitor the demonstration counties and pilot agencies for adherence to caseload standards, accurate and timely data reporting, adherence to state quality assurance standards and take sanctions if it is determined that the conditions of the performance contract are not being met. Sanctions shall be invoked as provided for in Section 5655.

(b) Demonstration counties and pilot agencies shall report to the State Department of Mental Health progress toward client and cost outcome and interagency collaboration goals pursuant to Section 5834.

(c) The State Department of Mental Health shall review the demonstration counties and pilot agencies project findings and may proceed to implement additional demonstration counties or pilot agencies prior to the end of the demonstration period if the director finds that the demonstration counties or the pilot agencies have resulted in substantial progress toward the goals listed in Section 5834.

(d) No later than December 1, 1992, the Director of Mental Health shall submit a written report to the appropriate legislative committees comparing and evaluating the demonstration counties and the pilot agencies, and determining the feasibility of implementing additional county interagency systems and integrated service agencies throughout the state after June 30, 1993. The report shall include the recommendations of the director pursuant to Sections 5834 and 5835 and the reports of the independent evaluator hired pursuant to Section 5836.

(e) These committees shall make their recommendations to the Legislature by January 31, 1993.

CHAPTER 6. EMERGENCY REGULATIONS

5838. By July 1, 1989, the State Department of Mental Health shall develop regulations as necessary to implement the county demonstration and pilot agency projects enabled by Chapter 1 (commencing with Section 5800) and Chapter 2 (commencing with

Section 5808). The Director of Mental Health shall adopt regulations pursuant to this section as emergency regulations, in accordance with provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until 180 days after the regulations take effect, and shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

CHAPTER 7. FINANCIAL PARTICIPATION

5839. The cost requirements for local financial participation pursuant to Section 5705 shall be waived for funds appropriated to support the demonstration projects established by Chapter 1 (commencing with Section 5800) and Chapter 2 (commencing with Section 5808) of this part.

CHAPTER 8. APPROPRIATIONS

5840. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the State Department of Mental Health in augmentation of the Budget Act of 1988 in accordance with the following schedule:

(1) Five hundred eleven thousand dollars ($511,000) in augmentation of Item 4440-001-001 to provide for departmental support for startup costs.

(2) Four hundred eighty-nine thousand dollars ($489,000) in augmentation of Item 4440-101-001 to provide for the Ventura County Children's Program.

(b) It is the intent of the Legislature that this act be funded annually for the 1989–90, 1990–91, 1991–92, and 1992–1993 fiscal years, and that funds appropriated through the budget process be apportioned 80 percent to the county demonstration projects pursuant to Chapter 1 (commencing with Section 5800) and the pilot agencies pursuant to Chapter 2 (commencing with Section 5808) of this part, and 20 percent for programs pursuant to the Children's Mental Health Services Act, Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5.

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

In order to begin testing the effectiveness and feasibility of new

systems of care for seriously mentally disordered persons as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 983

An act to amend Section 11751.4 of, and to add Division 10.6 (commencing with Section 11998) to, the Health and Safety Code, and making an appropriation in augmentation of Item 4200-001-001 of Section 2.00 of the Budget Act of 1988 (Ch. 313, Stats. 1988), relating to drug and alcohol abuse.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988.]

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

SECTION 1. The Legislature finds and declares all of the following:

(a) Alcohol problems cost the State of California eleven billion seven hundred million dollars ($11,700,000,000) each year in lost worker productivity, health and medical costs, motor vehicle accidents, violent crimes, social responses, and fire losses.

(b) Comparable losses due to drug abuse are an additional six billion dollars ($6,000,000,000).

(c) Approximately 2,500 Californians will die in 1988 in alcohol-related accidents, and there will be over 70,000 alcohol-related traffic injuries. This will occur despite approximately 325,000 misdemeanor arrests and 7,000 felony arrests for persons driving while intoxicated.

(d) Currently there are approximately 68,000 licensed retail liquor outlets in the state. In the 1986–87 fiscal year, the Department of Alcoholic Beverage Control filed accusations against 2,227 vendors for selling alcoholic beverages to minors.

(e) It is conservatively estimated that 3.8 percent of all Californians abuse drugs to the degree that services are needed. The 1986 incidence data reveals that there are 991,000 active drug abusers in this state, and 27 percent of this number are heroin users. Active drug abusers are defined as persons using drugs for nonmedical purposes on a daily basis.

(f) In 1986, the Attorney General's office recorded approximately 60,000 arrests for controlled substance offenses. Furthermore, in 1986, the Attorney General's office estimated that there were at least 975 clandestine laboratories operating in California.

(g) Currently, there are over 38,000 adults on parole in California, of which 79 percent or approximately 8 out of 10 have a history of alcohol or drug abuse. In addition, during a recent 12-month period, at least 8,000 adult parolees were reported in violation of their parole as a result of drug or alcohol abuse.

(h) The Superintendent of Public Instruction reported that in the 1986–87 school year there were 4,377,989 California children registered in public school. The Attorney General, based on a recent survey of 11th graders, indicated that 78 percent of these youngsters had consumed alcohol by age 14, and 51 percent had tried illegal drugs by the 11th grade.

(i) The State Department of Alcohol and Drug Programs reports that in San Francisco, Los Angeles, and San Diego, 27 children between the ages of 6 and 17 died in 1986 from alcohol or drug-related incidents.

(j) There are approximately 225,000 habitual needle-using drug addicts and an additional 200,000 recreational intravenous drug users in the state. The increasing costs associated with the spread of the AIDS virus is largely caused by the intravenous drug user. Currently, in California, approximately 10 percent of the people suffering from AIDS report a history of injecting illegal drugs.

(k) Every dollar spent on drug and alcohol abuse prevention and treatment produces economic benefits several times greater than cost. For example:

(1) Thirty-one dollars ($31) in benefits are gained for every one dollar ($1) spent on prevention services.

(2) Eleven dollars and fifty-four cents ($11.54) in benefits are gained for every one dollar ($1) spent on drug abuse treatment services.

(3) Cost savings are realized in such areas as courts, jails, and emergency rooms. Additional benefits not reflected in the above figures include reductions of cost in such areas as loss of life; medical costs, personal suffering, and property damage associated with drug-related vehicle accidents, violence, or drug trafficking; or expenditures related to crime prevention.

(*l*) One hundred million dollars ($100,000,000) is the current cost estimate of unmet needs for drug and alcohol services statewide. Implementation of just the top fifteen million dollars ($15,000,000) of unmet needs would result in benefits to California of almost two hundred forty-two million dollars ($242,000,000).

(m) Currently, there is no consistent coordination between the 14 different state agencies that provide some type of drug or alcohol services. There is no established mechanism to prevent or eliminate unnecessary duplication of efforts.

(n) Therefore, with insufficient resources to fully address the drug and alcohol abuse problem, it is imperative that all services and resources are coordinated and that all unnecessary duplication is eliminated.

SEC. 2. It is the intent of the Legislature, in enacting this act, to do all of the following:

(a) Establish a five-year master plan with specific goals for all segments of society to strive toward, as California wages the war on drug and alcohol abuse.

(b) Establish lines of communication and avenues of coordination

that eliminate unnecessary duplication and facilitate networking and the development of a united approach to the problem.

(c) Maximize and more effectively use existing resources invested in the tremendous efforts to reduce drug and alcohol abuse.

(d) Provide new funding sources to supplement current financial commitments.

(e) Provide direction for legislative, budgetary, and public policy decisions affecting drug and alcohol services.

SEC. 3. Section 11751.4 of the Health and Safety Code is amended to read:

11751.4. (a) It is the intent of the Legislature to assure the integrity and separate identity of state alcohol and drug programs.

(b) The Legislature recognizes, however, that state alcohol and drug programs have many areas of common concern. Therefore, the State Advisory Board on Alcohol-Related Problems, as created pursuant to Section 11780, and the State Advisory Board on Drug Programs, as created pursuant to Section 11862, shall meet jointly at least twice each calendar year. Furthermore, if a county has established separate advisory bodies for alcohol and drug issues, these local advisory bodies also shall meet jointly on a regular basis and at least two times per year.

SEC. 4. Division 10.6 (commencing with Section 11998) is added to the Health and Safety Code, to read:

DIVISION 10.6. DRUG AND ALCOHOL ABUSE MASTER PLANS

CHAPTER 1. LONG-RANGE GOALS

11998. This chapter sets forth the long-range goals of a five-year master plan to eliminate drug and alcohol abuse in California. The goals of this chapter are advisory, but it is the intent of the Legislature that the goals be addressed to the extent possible by each county and by state government. These advisory goals do not amend existing law. Implementation of the goals of the master plan, after the state plan has been developed and issued, shall be subject to the budget review process.

11998.1. It is the intent of the Legislature that the following long-term five-year goals be achieved:

(a) With regard to education and prevention of drug and alcohol abuse programs, the following goals:

(1) Drug and alcohol abuse education has been included within the mandatory curriculum in kindergarten and grades 1 to 12, inclusive, in every public school in California.

(2) Basic training on how to recognize, and understand what to do about, drug and alcohol abuse has been provided to administrators and all teachers of kindergarten and grades 1 to 12, inclusive.

(3) All school counselors and school nurses have received comprehensive drug and alcohol abuse training.

(4) Each public school in kindergarten and grades 1 to 12, inclusive, has appointed an onsite drug and alcohol abuse advisory team of school administrators, teachers, counselors, students, parents, and community representatives, and health care professionals, all of whom have expertise in drug and alcohol abuse prevention. The team coordinates with and receives consultation from the county alcohol and drug program administrator.

(5) Every school board member has received basic drug and alcohol abuse information.

(6) Each school district has a drug and alcohol abuse specialist to assist the individual schools.

(7) Each school in grades 7 to 12, inclusive, has student peer group drug and alcohol abuse programs.

(8) Every school in kindergarten and grades 1 to 12, inclusive, has updated written drug and alcohol abuse policies and procedures including disciplinary procedures which will be given to every school employee, every student, and every parent.

(9) The California State University and the University of California have evaluated and, if feasible, established educational programs and degrees in the area of drug and alcohol abuse.

(10) Every school in kindergarten and grades 1 to 12, inclusive, has an established parent teachers group with drug and alcohol abuse prevention goals.

(11) Every school district has instituted a drug and alcohol abuse education program for parents.

(12) Drug and alcohol abuse training has been imposed as a condition for teacher credentialing and license renewal, and knowledge on the issue is measured on the California Basic Education Skills Test.

(13) Drug and alcohol abuse knowledge has been established as a component on standardized competency tests as a requirement for graduation.

(14) Every school district has established a parent support group.

(15) Every school has instituted policies which address the special needs of children who have been rehabilitated for drug or alcohol abuse problems and who are reentering school. These policies shall consider the loss of school time, the loss of academic credits, and the sociological problems associated with drug and alcohol abuse, its rehabilitation, and the educational delay it causes.

(16) The number of drug and alcohol abuse related incidents on school grounds has decreased by 20 percent.

(b) With regard to community programs, the following goals:

(1) Every community-based social service organization that receives state and local financial assistance has drug and alcohol abuse information available for clients.

(2) All neighborhood watch, business watch, and community conflict resolution programs have included drug and alcohol abuse prevention efforts.

(3) All community-based programs that serve school-aged

children have staff trained in drug and alcohol abuse and will give a clear, drug and alcohol-free message.

(c) With regard to drug and alcohol abuse programs of the media, the following goals:

(1) The state has established a comprehensive media campaign that involves all facets of the drug and alcohol abuse problem, including treatment, education, prevention, and intervention.

(2) The department on a statewide basis, and the county board of supervisors or its designees at the local level, have:

(A) Assisted the entertainment industry in identifying ways to effectively use the entertainment industry to encourage lifestyles free of substance abuse.

(B) Assisted the manufacturers of drug and alcohol products in identifying ways to effectively use product advertising to discourage substance abuse.

(C) Assisted television stations in identifying ways to effectively use television programming to encourage lifestyles free of substance abuse.

(3) A statewide cooperative fundraising program with recording artists and the entertainment industry has been encouraged to fund drug and alcohol abuse prevention efforts in the state.

(d) With regard to drug and alcohol abuse health care programs, the following goals:

(1) The number of drug and alcohol abuse-related medical emergencies has decreased by 4 percent per year.

(2) All general acute care hospitals and AIDS medical service providers have provided information to their patients on drug and alcohol abuse.

(3) The Board of Medical Quality Assurance, the Psychology Examining Committee, the Board of Registered Nursing, and the Board of Behavioral Science Examiners have developed and implemented the guidelines or regulations requiring drug and alcohol abuse training for their licensees, and have developed methods of providing training for those professionals.

(e) With regard to private sector drug and alcohol abuse programs, the following goals:

(1) A significant percentage of businesses in the private sector have developed personnel policies that discourage drug and alcohol abuse and encourage supervision, training, and employee education.

(2) Noteworthy and publicly recognized figures and private industry have been encouraged to sponsor fundraising events for drug and alcohol abuse prevention.

(3) Every public or private athletic team has been encouraged to establish policies forbidding drug and alcohol abuse.

(4) The private sector has established personnel policies that discourage drug and alcohol abuse but encourage treatment for those employees who require this assistance.

(f) With regard to local government drug and alcohol abuse programs, the following goals:

(1) Every county has a five-year master plan to eliminate drug and alcohol abuse developed by the county designated alcohol and drug program administrator and reviewed and approved by the advisory body set forth in paragraph (2). In those counties which do not have an established advisory body as provided in paragraph (2), the county designated alcohol and drug program administrator has assumed responsibility for developing the plan, with assistance from representatives of the county's population as designated in paragraph (2). To the degree possible, all existing local plans relating to drug or alcohol abuse shall be incorporated into the master plan.

(2) Every county has a multidisciplinary drug and alcohol abuse advisory body. The membership of the local advisory body is representative of the county's population, geographically balanced, and consists of representatives of each of the following:

(A) Law enforcement.

(B) Education.

(C) The treatment and recovery community, including a representative with expertise in AIDS treatment services.

(D) The judiciary.

(E) County alcohol and drug administrators or their designees.

(F) Student groups.

(G) Parent groups.

(H) Private industry.

(I) Other community organizations involved in drug and alcohol services.

To the maximum extent possible, the county advisory board on alcohol problems and the county advisory board on drug problems have been modified to meet this goal.

(3) Every county public social service agency has established direct service policies that discourage drug and alcohol abuse and encourage rehabilitation treatment when necessary.

(4) Every local unit of government has an employee assistance program that addresses drug and alcohol abuse problems.

(5) Every local unit of government has considered the potential for drug and alcohol abuse problems when developing zoning ordinances and issuing conditional use permits.

(6) Every county master plan includes treatment and recovery services.

(6.5) Every county master plan includes specialized provisions to ensure optimum alcohol and drug abuse service delivery for handicapped and disabled persons.

(7) Every local unit of government has been encouraged to establish an employee assistance program that includes the treatment of drug and alcohol abuse related programs.

(8) Every local governmental social service provider has established a referral system under which clients with drug and alcohol abuse problems can be referred for treatment.

(9) Every county drug and alcohol abuse treatment or recovery program gives priority for services to pregnant women.

(10) Every alcohol and drug abuse program provides acquired immune deficiency syndrome (AIDS) information to all program participants.

(g) With regard to state and federal government drug and alcohol abuse programs, the following goals:

(1) The Department of Alcoholic Beverage Control has informed all alcohol retailers of the laws governing liquor sales and has provided training available to all personnel selling alcoholic beverages, on identifying and handling minors attempting to purchase alcohol.

(2) The Office of Criminal Justice Planning has required all applicants for crime prevention and juvenile justice and delinquency prevention funds to include drug and alcohol abuse prevention efforts in their programs.

(3) All county applications for funding from the department include a prevention component.

(4) The Superintendent of Public Instruction has employed drug and alcohol abuse school prevention specialists and assisted local school districts with the implementation of prevention programs.

(5) The State Department of Mental Health has staff trained in drug and alcohol abuse prevention who can assist local mental health programs with prevention efforts.

(6) The Department of the California Highway Patrol has established routine statewide sobriety check points for driving while under the influence.

(7) The Department of Corrections and the Department of the Youth Authority have provided drug and alcohol abuse education and prevention services for all inmates, wards, and parolees. Both departments have provided drug and alcohol abuse treatment services for any inmate, ward, or parolee determined to be in need of these services, or who personally requests these services.

(8) The Department of Motor Vehicles has distributed prevention materials with each driver's license or certificate of renewal and each vehicle registration renewal mailed by the Department of Motor Vehicles.

(9) Federal prevention programs have been encouraged to follow the master plan.

(10) State licensing and program regulations for drug and alcohol abuse treatment programs have been consolidated and administered by one state agency.

(11) State treatment funding priorities have been included to specially recognize the multiple diagnosed client who would be eligible for services from more than one state agency.

(12) Every state agency has formalized employee assistance programs that include the treatment of drug and alcohol abuse-related problems.

(13) The state master plan includes specialized provisions to ensure optimum drug and alcohol abuse service delivery for handicapped and disabled persons.

(h) With regard to private sector direct service providers, the following goals:

(1) Drinking drivers programs have provided clear measurements of successful completion of the program to the courts for each court-ordered client.

(2) All drug and alcohol abuse treatment programs provide poly drug abuse services or have an established referral system to ensure clients receive all needed services.

(3) Adequate nonresidential and residential services, are available statewide for juveniles in need of alcohol or drug abuse services.

(4) Each provider of alcohol or drug services has been certified by the state.

(5) Drug and alcohol abuse treatment providers provide general acquired immune deficiency syndrome (AIDS) information during treatment.

(i) With regard to supply regulation and reduction in conjunction with drug and alcohol abuse, the following goals:

(1) Each county has a drug and alcohol abuse enforcement team, designated by the board of supervisors, as a part of the overall drug and alcohol abuse advisory committee. This team includes all components of the criminal justice system.

This team shall be responsible to the board of supervisors and shall advise the drug and alcohol abuse advisory committee and the county on all criminal justice matters relating to drug and alcohol abuse.

(2) The Office of Criminal Justice Planning, the Youth and Adult Correctional Agency, the Department of the California Highway Patrol, the Office of Traffic Safety, and the Department of Justice have established a state level drug and alcohol abuse enforcement team that includes representatives from all facets of criminal justice. The lead agency for the enforcement team has been designated by the Governor. This team advises the state and assists the local teams.

(3) State career criminal apprehension and community crime prevention programs have included drug and alcohol abuse prevention components.

(4) The Office of Criminal Justice Planning, Youth and Adult Correctional Agency, and the Department of Justice have as a priority when determining training subjects, prevention seminars on drug and alcohol abuse.

(5) The Department of the California Highway Patrol, as permitted by the United States Constitution, will in conjunction with establishing sobriety check points statewide, assist local law enforcement agencies with the establishment of local programs.

(6) Counties with more than 10 Superior Court judgeships have established programs under which drug cases receive swift prosecution by well-trained prosecutors before judges who are experienced in the handling of drug cases.

(7) The courts, when determining bail eligibility and the amount

of bail for persons suspected of a crime involving a controlled substance, shall consider the quantity of the substance involved when measuring the danger to society if the suspect is released.

(8) Drunk driving jails have been established that provide offender education and treatment during incarceration.

(9) All probation and parole officers have received drug and alcohol abuse training, including particular training on drug recognition.

(10) All parolees and persons on probation with a criminal history that involves drug or alcohol abuse have conditions of parole or probation that prohibit drug and alcohol abuse.

(11) The Judicial Council has provided training on drug and alcohol abuse for the judges.

(12) The courts, when sentencing offenders convicted of selling drugs, consider "street value" of the drugs involved in the underlying crime.

(13) Judges have been encouraged to include treatment and prevention services in sentences for all offenders. Judges are requiring, as a condition of sentencing, education and treatment services for all persons convicted of driving under the influence of alcohol or drugs.

(14) Juvenile halls and jails provide clients with information on drug and alcohol abuse.

(15) The estimated number of clandestine labs operating has decreased by 10 percent per year.

(16) Each local law enforcement agency has developed, with the schools, protocol on responding to school drug and alcohol abuse problems.

(17) Every county has instituted a mandatory driving while under the influence presentence offender evaluation program.

11998.2. (a) "Department," as used in this division, means the State Department of Alcohol and Drug Programs.

(b) The board of supervisors of each county, or its designee, may, and is encouraged to, prepare and adopt a county drug and alcohol abuse master plan, developed by the county alcohol and drug program administrator and reviewed and approved by the advisory body set forth in Section 11998, that addresses as many of the long-range goals set forth in Section 11998.1 as possible. It is the intent of the Legislature that every county master plan include quantitative outcome objectives that, at a minimum, measure progress in the areas of prevention, education, enforcement, and treatment. It is the intent of the Legislature that these objectives include measurements of:

(1) The reduction of driving under the influence of drugs or alcohol arrests, or both.

(2) The reduction of drug-related arrests.

(3) Increased public education on the dangers of substance abuse and the available prevention techniques including specific measurements of children, parents, and teachers who have received

this education.

(4) The reduction of alcohol and drug-related deaths and injuries.

(5) The increased number of successful drug and alcohol rehabilitated clients.

If a county master plan is adopted, the board of supervisors or its designee shall, in conjunction with the advisory body, annually assess the progress of the county in reaching its long-range goals.

(c) Every county or public or private agency within a county that applies or reapplies for state or local assistance funds for drug and alcohol abuse efforts, including, but not limited to, funds provided under Division 10.5 (commencing with Section 11750), in their program, may address, to the extent possible, any long-range goals set forth in a county drug and alcohol abuse master plan pursuant to subdivision (b), and funding priority may be given to those entities which address these goals within their respective programs.

(d) The Governor shall designate one state agency to act as the lead agency on all drug and alcohol abuse matters.

(e) Every state agency that contracts or grants money to local jurisdictions or programs for drug and alcohol abuse services shall require the submission and shall review the contents of an approved county drug and alcohol abuse master plan, to the extent a plan has been adopted pursuant to subdivision (b).

(f) Commencing on January 1, 1990, every state agency that offers drug and alcohol abuse services or financial assistance shall report to the Legislature annually on its efforts to achieve the master plan goals provided in Section 11998.1.

(g) The department shall send copies of this division to all state-funded social service programs that provide drug and alcohol abuse services.

(h) The department shall maintain copies of every county drug and alcohol abuse master plan for review by other state agencies and the Legislature.

(i) The Governor shall designate one statewide resource center to coordinate efforts of other resource centers statewide and to coordinate with local government and assist in their preparation of drug and alcohol abuse master plans.

(j) The Senate Office of Research shall prepare, on or before June 30, 1989, a summary of drug and alcohol abuse laws for use by the Legislature, the department, and all other related state agencies in oversight of drug and alcohol abuse programs, and in evaluating the need for statutory changes. To the degree possible this summary shall be available to the public.

(k) Commencing June 30, 1989, the department shall maintain an annually updated listing of all drug and alcohol abuse programs provided or funded by the state. Every other state agency shall regularly provide the department with current information on programs they fund or provide.

(*l*) The Governor's Policy Council on Drug and Alcohol Abuse shall review and consider all of the goals contained in Section 11998.1.

After January 1, 1992, the Auditor General shall audit the department to determine the state's progress and to the degree possible, the counties' progress toward meeting the master plan objectives set forth by this division. On or before January 1, 1993, the Auditor General shall report the findings resulting from these audits to the Legislature.

11998.3. Priority in allocating state funds for substance abuse law enforcement agencies shall be given to those counties which have established a drug and alcohol abuse enforcement team, comprised of representatives of all law enforcement agencies within the county, including the courts. The drug and alcohol abuse enforcement team shall adopt measures to coordinate the efforts of drug and alcohol abuse law enforcement agencies within the county.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

SEC. 6. The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund in augmentation of Item 4200-001-001 of Section 2.00 of the Budget Act of 1988 (Ch. 313, Stats. 1988). The funds so appropriated shall be expended by the State Department of Alcohol and Drug Programs only upon completion and public issuance of the master plan as set forth by this act, as the State Master Plan to Reduce Drug and Alcohol Abuse.

CHAPTER 984

An act to amend Sections 16312, 16475, 53692, 58751, and 58752 of, and to add Section 91554 to, the Government Code, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

I am reducing the $7,465,000 General Fund appropriation to $250,000, and I am deleting the $5,000,000 Federal Trust Fund appropriation contained in Section 7 of Senate Bill No 2172 to reflect the elimination of duplicate or inappropriate funding requests as follows

I am deleting the $5,000,000 General Fund and $5,000,000 Federal Trust Fund appropriations to the Department of Health Services for the purpose of providing increased funding for disproportionate share hospitals that operate trauma centers or basic emergency rooms I am signing SB 2563 (Maddy) which will provide the same level of funding to the Department of Health Services to facilitate the funding of specified disproportionate share hospitals SB 2563 reflects the agreement reached between the Legislature and the Administration to complete the 1988–89 Budget process, and contains an appropriation for this purpose Therefore, the General and Federal Fund appropriations contained in this bill are unnecessary

I am also deleting the augmentation of $225,000 General Fund to Item 4260-111-001,

Department of Health Services AB 1903 contains funds to implement this program Thus, the appropriation contained in this bill is duplicative and unnecessary

I am reducing the $1,150,000 General Fund appropriation to the Department of Veterans Affairs to $250,000 for the purpose of funding County Veterans Service Officers program The County Veterans Service Officers program has always been a county program and as such has been dependent primarily upon county support State support is, therefore, supplemental and not related to the level of program activity As such, I believe that the issue of funding for the County Veterans Service Officers program should primarily be addressed at the county level I am signing legislation to provide the counties an additional $216 5 million for the fiscal year Sufficient funds will be available to the counties to maintain County Veterans Service Officers programs I am, however, retaining $250,000 of the augmentation which will allow the state to assist the counties in maintaining services to veterans through County Veteran Services Offices This augmentation recognizes the increased costs associated with the reestablishment of the San Diego Veteran service office which has reduced the level of state subventions to the other 53 offices These funds will allow counties to maintain the current level of service to veterans Moreover, the 1988–89 Budget provides $28 2 million in state funds and $10 1 million in federal funds to provide services to California veterans

I am deleting the augmentation of $1,100,000 to Item 8260-111-001, California Arts Council, intended to fund the California Challenge Program I have retained the $1,000,000 augmentation included in AB 1903 for this purpose Thus, the appropriation contained in this bill is duplicative and unnecessary.

With these reductions, I approve Senate Bill No 2172

GEORGE DEUKMEJIAN

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 16312 of the Government Code is amended to read:

16312. (a) Notwithstanding and in addition to any other provision of law permitting withdrawal of moneys from the General Fund for deposit into a special fund for the purpose of carrying out a program or project with repayment to the General Fund to come from the proceeds of the later sale of state bonds or notes, the Pooled Money Investment Board may instead make a loan from the Pooled Money Investment Account directly to any such special fund, on such terms and conditions as the board may determine, upon request made to the board by an appropriate official. Any official authorized by law to seek, authorize, or approve a withdrawal of moneys from the General Fund for these purposes may in the alternative request a loan from the board as provided in this section and execute such documents as are required by the board to obtain and repay the loan. Interest on the loan shall be determined as provided in Section 16314.

(b) The Pooled Money Investment Board may also make a loan from the Pooled Money Investment Account to any special fund for the purpose of carrying out a program or project that is authorized to be financed by issuing bonds, notes, or other evidence of indebtedness, where the special fund does not qualify under subdivision (a). Any loan shall be subject to those terms and conditions as the board shall determine and interest shall be determined as provided in Section 16314.

Any state agency or other entity of state government that has

authority to issue bonds may request a loan from the Pooled Money Investment Account and execute such documents as are required by the board to obtain and repay the loan.

(c) When a loan is made pursuant to subdivision (a) or (b) to a special fund to carry out a state general obligation bond program, other than a program adopted pursuant to an initiative statute prior to August 22, 1988, or Chapter 27, 30, 48, or 49 of the Statutes of 1988, the special fund shall pay the loan interest out of the proceeds derived from bond sales. For non-self-liquidating programs adopted pursuant to an initiative statute prior to August 22, 1988, or Chapter 27, 30, 48, or 49 of the Statutes of 1988, the General Fund shall pay the loan interest.

(d) Notwithstanding Section 13340, amounts required to pay interest on loans made to non-self-liquidating general obligation bond programs are hereby continuously appropriated from the General Fund.

The Legislature hereby finds and declares that these appropriations for interest payments regarding general obligation bond programs are appropriations for debt service as defined in Section 8 of Article XIII B of the California Constitution and therefore are exempt from the appropriations limit set by that article.

SEC. 2. Section 16475 of the Government Code is amended to read:

16475. As of December 31 and June 30 all interest earned and other increment derived from investments made pursuant to this article shall, on order of the Controller, be deposited in the Surplus Money Investment Fund. The Controller, after deducting expenses incurred under this article by the Treasurer in investing in securities or time bank or savings and loan association deposits and in collecting bonds and bond coupons, shall apportion, as of December 31st and June 30th of each year, to the following funds in the Treasury, all interest earned or increment derived from the investments authorized by this article for the six calendar months ending with those dates:

(a) The General Fund.

(b) Each fund into which are deposited or which contains moneys collected from any tax now or hereafter imposed by this state upon the manufacture, sale, distribution, or use of motor vehicle fuel, for use in motor vehicles upon the public streets and highways.

(c) Each fund into which are deposited or which contains moneys collected from motor vehicle and other vehicle registration license fees or from any other tax or license fee now or hereafter imposed by the state upon vehicles, motor vehicles or the operation thereof, except those taxes and license fees which, by the provisions of Section 7 of Article XIX of the Constitution are exempted from the provisions of Section 2 of Article XIX.

(d) Each fund into which are deposited or which contains moneys collected under the provisions of any law of this state relating to the

protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans, and fines imposed by any court for the violation of any of those laws.

(e) Each fund into which are deposited or which contains moneys available for construction, repair, replacement, maintenance or operation of public works of the state, including, but not limited to, the facilities of the State Water Resources Development System, as defined in Section 12931 of the Water Code, toll facilities financed, built, or acquired pursuant to the California Toll Bridge Authority Act, or moneys available for the payment of principal or interest on bonds issued to provide for the construction of those facilities.

(f) Every other fund in respect to which the Board of Control on the advice of the Attorney General determines that the operation of the California Constitution or the United States Constitution prohibits the expenditure of interest received under this article and allocated on the basis of amounts in that fund for General Fund purposes.

(g) Each fund not included within subdivisions (a) to (f), inclusive.

The apportionments shall be made by the Controller in the following manner:

(1) All money not apportioned to the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g) shall be apportioned to the General Fund.

(2) There shall be apportioned to each of the funds referred to in subdivisions (b), (c), (d), (e), (f), and (g), an amount directly proportionate to the respective amounts transferred from those funds to the Surplus Money Investment Fund and the length of time the amounts remained therein.

(3) Interest accrued or paid to the Pooled Money Investment Account from the proceeds of tax-exempt obligations on loans made pursuant to Section 16312 or 16313, to the extent thereof, shall be deemed apportioned to the State Highway Account or such other accounts as may be designated by the Controller pursuant to Section 16654, but only to the extent of its proportionate earnings as determined under paragraph (2). This paragraph shall neither increase nor decrease the amount of earnings apportioned to any fund or account in accordance with this section. These moneys shall be deemed expended (or applied to reimburse expenditures previously paid) first following the allocation of these interest earnings of the Surplus Money Investment Fund to the State Highway Account or such other accounts as may be designated by the Controller pursuant to Section 16654. It is the intent of the Legislature that this paragraph shall authorize the Treasurer and the Controller to monitor the expenditure of the proceeds of tax-exempt obligations in order to comply with federal tax laws and shall neither increase nor decrease the amount of bonds, notes, or other obligations to be issued by the state or any subdivision thereof, nor shall this paragraph be interpreted to indicate that the allocation is

contrary to any bond act.

SEC. 3. Section 53692 of the Government Code is amended to read:

53692. In addition to any other requirement imposed by law, at least 15 days prior to the sale of any public securities which exceed one million dollars ($1,000,000) at a public sale, an issuer shall publish notice of the intention to sell the securities in a financial publication generally circulated throughout the state or reasonably expected to be disseminated among prospective bidders for the securities. The notice shall include the date, time, and place of the intended sale and the amount of the securities to be sold.

SEC. 4. Section 58751 of the Government Code is amended to read:

58751. As used in this chapter, unless the context requires otherwise:

"Assessed value" means, in the case of (i) a district, the total assessed value of real property within the entire territory of the district, and (ii) a subdistrict, the total assessed value of real property within such subdistrict. The assessed value shall be determined from the last equalized assessment roll or rolls of the county or counties within which any such district or subdistrict is located, pursuant to subdivision (a) of Section 135 of the Revenue and Taxation Code If the boundaries of any district or subdistrict do not conform to the property lines shown on the roll or rolls, the county assessor shall furnish the district or the State Treasurer with estimated assessed values as may be necessary to comply with this chapter.

"Bonds" means (i) any "security", as defined in subdivisions (a) to (d), inclusive, of Section 8102 of the Commercial Code, that has been or is proposed to be issued by a district or any officer thereof, the principal and interest of which is payable, in whole or in part, from any ad valorem taxes or ad valorem assessments upon real or personal property, or both, and, (ii) in addition, any bonds issued or proposed to be issued under the Improvement Bond Act of 1915 (commencing with Section 8500, Streets and Highways Code). "Bonds" does not include:

(a) Any bonds, the entire principal of which is payable within a period of less than five years from the date of issuance thereof, except where any such bonds shall be a part of a larger issue or series of bonds some of which are payable after said five-year period;

(b) Any bonds, payable to or to be purchased or held by the state, the United States of America, or any city, city and county, county or district, or any agency, department or officer thereof; or

(c) Any bonds, issued under any special assessment act or law where the sole remedy of the bondholder is the enforcement of a specific lien on a specific parcel of land, or where a determination has been made pursuant to subdivision (b) of Section 8769 of the Streets and Highways Code.

"District" means any agency of the state, formed pursuant to general law or special act, for the local performance of governmental

or proprietary functions within limited boundaries. "District" shall not include the state, any city, city and county, county, school district, any district the majority of members of whose governing body is composed of members of boards of supervisors or city councils, or any combination of either, or is composed of members the majority of which are appointed by boards of supervisors or city councils, or any district which proposes to issue bonds pursuant to any law requiring the approval of or an investigation and report by the State Treasurer prior to the issuance of such bonds.

"District bonds" means (i) any bonds issued or proposed to be issued by the district which are payable, in whole or in part, from ad valorem taxes or ad valorem assessments to be levied upon real or personal property, or both, within the entire territory of the district, and (ii) any bonds issued or proposed to be issued by the district under the Improvement Bond Act of 1915 in a proceeding where the entire territory of the district comprises the special assessment district.

"Investigation, report, and approval" means the making of an investigation and report and the approval of bonds for certification, in the manner and as provided in Division 10 (commencing with Section 20000) of the Water Code.

"Issue" or "issuance" means any award or contract which obligates the district, or any of its officers, to execute and deliver bonds to any purchaser or other person entitled thereto.

"Outstanding district indebtedness" means the unpaid principal amount of all issued and outstanding (i) district bonds and (ii) subdistrict bonds issued under the Improvement Bond Act of 1915.

"Subdistrict" means any lands, consisting of less than the entire territory of a district, which have been or are proposed to be formed by the district into a special assessment district or any improvement district, zone or area within the district.

"Subdistrict bonds" means (i) any bonds issued or proposed to be issued by the district which are payable, in whole or in part, from taxes or ad valorem assessments to be levied upon real or personal property, or both, within the territory of a subdistrict, and (ii) any bonds issued or proposed to be issued by the district under the Improvement Bond Act of 1915 in a proceeding where less than the entire territory of the district comprises the special assessment district.

SEC. 5. Section 58752 of the Government Code is amended to read:

58752. The issuance of any proposed district bonds shall be subject to prior investigation, report, and approval by the State Treasurer whenever either of the following conditions are present:

(a) In the event that the proposed bonds are to be secured by a tax or assessment on land and improvements, when the amount of outstanding district indebtedness plus the principal amount of the proposed district bonds exceed the assessed value of the land and improvements within the district as shown on the last equalized

county assessment roll.

(b) In the event that the proposed bonds are to be secured by a tax or assessment on land only, when the amount of outstanding district indebtedness plus the principal amount of the proposed district bonds shall exceed the assessed value of the land within the district as shown on the last equalized county assessment roll.

Whenever either of the foregoing conditions exist, no district bonds shall be issued until after investigation, report, and approval by the State Treasurer.

The provisions of this section shall not apply to bonds issued pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code) or the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code).

SEC. 6. Section 91554 is added to the Government Code, to read:

91554. Upon order of the commission, any surplus in the Industrial Development Fund not required for the expenses of the commission shall be transferred, in accordance with the commission's order, to common reserve funds established by the commission pursuant to Section 91560. These moneys may be used, without further appropriation by the Legislature, for the purposes authorized by Section 91560.

SEC. 7. The sum of seven million four hundred seventy-five thousand dollars ($7,475,000) is hereby appropriated from the General Fund and five million dollars ($5,000,000) is appropriated from the Federal Trust Fund in augmentation of the following specified items of the Budget Act of 1988, Chapter 313 of the Statutes of 1988, in accordance with the following schedule:

1960-101-001—For augmentation of Department of Veterans Affairs		1,150,000
4260-101-001—For augmentation of Department of Health Services		5,000,000
Schedule:		
(a) 50.11-Benefits (Medical Care and Services)	10,000,000	
(e) Increased amount payable from the Federal Trust Fund (Item 4260-101-890)	-5,000,000	
The department shall allocate $10,000,000 to augment the contracting pool to allow disproportionate share hospitals that operate trauma centers or basic emergency rooms to negotiate with the California Medical Assistance Commission for higher rates of reimbursement.		
4260-101-890—For augmentation of the Department of Health Services		5,000,000
4260-111-001—For augmentation of the Department of Health Services		225,000

Schedule:
(b) 15-AIDS For the Barlow Hospice Center in Los Angeles 225,000
8260-111-001—For augmentation of the California Arts Council 1,100,000
Funds appropriated for the California Challenge Program shall not be expended unless the grant recipient provides matching funds through new and increased private contributions based on criteria established by the California Arts Council specifically for this program.

SEC. 8. The sum of eight hundred seven thousand dollars ($807,000) is hereby appropriated from the General Fund in augmentation of Item 8550-001-191 (b) of the Budget Act of 1988, Chapter 313 of the Statutes of 1988.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to enable the state to market bonds under recent federal tax law changes and for the funds appropriated by this act to be available for expenditure as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 985

An act to amend Sections 7001 and 7002.5 of, and to add Section 24702.1 to, the Education Code, relating to public schools, and making an appropriation therefor.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 7001 of the Education Code is amended to read:

7001. (a) The county superintendent of schools, school district, or community college district shall annually select a one-month period during which persons described by Section 7000 may elect to enroll in, respectively, the health and welfare benefit plan or the dental care benefit plan or change their enrollment from one to another health and welfare plan or dental care benefit plan, respectively.

(b) A certificated school employee who is retired on August 25, 1986, or the surviving spouse of a certificated employee retired as of August 25, 1986, shall be permitted to enroll in any district health and

dental care plan during the 1986, 1987, and 1988 enrollment periods.

(c) A certificated school employee who retires after August 24, 1986, or the surviving spouse of a certificated employee whose death occurs after August 25, 1986, shall be allowed to enroll in the coverage provided by this article within 30 days of losing active employee coverage, but if the retiree or the surviving spouse does not enroll in a district health or dental care plan during this initial enrollment period, the retiree or surviving spouse may be denied further opportunity to do so.

The enrollment period for retirees and surviving spouses under this subdivision shall correspond to that provided to active employees, unless a district chooses to offer an additional enrollment period.

(d) This article shall permit enrollment into any district health and dental care plan only once. A retiree or spouse or surviving spouse of a certificated employee who has been previously covered under this article and who has voluntarily terminated that coverage, may be excluded from again obtaining coverage under this article thereafter. This subdivision does not apply to a person who is changing plans within a district during an open enrollment period.

(e) Retirees or surviving spouses of certificated employees may be enrolled in a medical care plan pursuant to this section during periods other than those specified therein if they lose their coverage. With documentation of prior coverage, they may be allowed to enroll in a medical care plan, if they do so within 31 days of losing their other coverage.

SEC. 2. Section 7002.5 of the Education Code is amended to read:

7002.5. (a) This article does not create a vested retirement right in health and dental care benefits.

(b) The individual districts, the county office, a health plan, an entity proving or arranging a health plan, and the State Teachers' Retirement System do not have any legal duty to contact retired teachers or surviving spouses of certificated employees with regard to this article.

SEC. 3. Section 24702.1 is added to the Education Code, to read:

24702.1. Notwithstanding Section 24702, revenues from school lands or lieu lands related to the claim of the State of California to the school lands within the area referred to as the Elk Hills Naval Petroleum Reserve, shall be deposited in the School Land Bank Fund established by Section 8711 of the Public Resources Code. Interest earnings from this source of revenue deposited in the School Land Bank Fund shall be transmitted to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code and shall be distributed pursuant to Section 24702.

CHAPTER 986

An act relating to veterans, and making an appropriation therefor.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. The sum of thirty-five thousand dollars ($35,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for allocation to the California Veterans Board for expenditure during the 1989 calendar year for the purpose of reimbursing the members of the Prisoners of War Committee of the California Veterans Board for their actual and necessary expenses incurred in carrying out their committee duties.

SEC. 2. The Prisoners of War Committee shall prepare and submit to the Department of Veterans Affairs an accounting of all funds received and expended pursuant to Section 1 of this act. The Department of Veterans Affairs shall prepare and submit a report to the Legislature, on or before January 1, 1991, on the expenditure of funds by the Prisoners of War Committee pursuant to Section 1 of this act.

CHAPTER 987

An act to add and repeal Section 11019.6 of, and to amend, add, and repeal Section 15202 of, the Government Code, and to amend Section 2 of Chapter 1469 of the Statutes of 1984, relating to county finance.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 11019.6 is added to the Government Code, to read:

11019.6. (a) Notwithstanding any other provision of law, but to the extent consistent with applicable federal law and to the extent that funds are available, the Department of Finance, after receiving a request by the board of supervisors of any county with a population of 150,000 or less at the time of the 1980 decennial census may waive for one fiscal year the county's legal obligation to meet a matching fund requirement or otherwise to provide a share of the cost of the program for reimbursement of homicide trial costs in small counties pursuant to Section 15202. Any request by a board of supervisors shall be made by resolution adopted by a majority of the members of the

board after a public hearing. The resolution shall contain findings regarding the financial condition of the county government which constitute the basis for the board's request.

The determination of whether to grant a waiver shall be based on standards developed by the Department of Finance, and any determination to grant a waiver shall be based on conditions of actual necessity. The waiver of a matching fund requirement may not be authorized sooner than 30 days after notification in writing of the necessity therefor to the chairpersons of the fiscal committees in each house of the Legislature and the chairperson of the Joint Legislative Budget Committee, or not sooner than whatever lesser time the chairperson of the Joint Legislative Budget Committee may in each instance determine.

(b) The waiver of any matching funds pursuant to subdivision (a) shall not result in any decrease in the total expenditure of funds for any program. The amount of any matching fund requirement that is waived pursuant to subdivision (a) shall be paid by the state from the Item 8180 of the annual Budget Act.

(c) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1991, extends or deletes that date.

SEC. 2. Section 15202 of the Government Code, as amended by Section 46 of Chapter 323 of the Statutes of 1983, is repealed.

SEC. 3. Section 15202 of the Government Code, as amended by Chapter 32 of the Statutes of 1986, is amended to read:

15202. (a) A county with a population of 300,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred by the county for each such trial or hearing, without regard to fiscal year, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(b) (1) A county with a population of 150,000 or less, at the time of the 1980 decennial census, which is responsible for the cost of two or more trials or hearings within a fiscal year of a person or persons for the offense of homicide may apply to the Controller for reimbursement of 90 percent of the costs incurred in a fiscal year by the county for the conduct of the first trial within a fiscal year and 85 percent of the costs incurred in a fiscal year by the county for the conduct of any and all subsequent trials or hearings, in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent of the full value of property assessed for purposes of taxation within the county.

(2) A county with a population of 150,000 or less, at the time of the 1980 decennial census, which, within a fiscal year, is reimbursed for costs incurred by the county for the conduct of only one trial or hearing pursuant to subdivision (a) shall be reimbursed for that one

trial or hearing in subsequent fiscal years for costs incurred in those subsequent fiscal years without again being required to expend county funds equal to 0.00625 of 1 percent of assessed valuation of property within the county so long as all reimbursements to the county under this paragraph are for only that one trial or hearing.

For purposes of this subdivision, in determining the costs of a homicide trial, trials, hearing, or hearings, the costs shall include, all pretrial, trial, and posttrial costs incurred in connection with the investigation, prosecution, and defense of a homicide case or cases within a fiscal year, including, but not limited to, the costs incurred by the district attorney, sheriff, public defender, and witnesses, which were reasonably required by the court and participants in the case or cases, and other extraordinary costs associated with the investigation in homicide cases.

(c) A county with a population exceeding 300,000 at the time of the 1980 decennial census which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of 80 percent of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.00625 of 1 percent, and not in excess of the amount of money derived from a tax of 0.0125 of 1 percent, and for reimbursement of 100 percent of the costs incurred in excess of the amount of money derived from a tax of 0.0125 percent, of the full value of property assessed for purposes of taxation within the county.

(d) The Controller shall not reimburse any county for costs that exceed the standards for travel and per diem expenses set forth in Sections 700 to 715, and 718, of Title 2 of the California Administrative Code. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for such expenditures.

(e) The Legislature recognizes that the conduct of trials for persons accused of homicide should not be hampered or delayed because of a lack of funds available to the counties for that purpose. While this section is intended to provide an equitable basis for determining the allocation to the state of the costs of homicide trials in any particular county, the rising costs of those trials necessitate an objective study to assure reasonable financial restraints and incentives for cost-effectiveness that do not place an unreasonable burden on the treasury of the smaller counties.

This section shall remain operative only until January 1, 1991, and as of that date is repealed.

SEC. 4. Section 15202 is added to the Government Code, to read:

15202. A county which is responsible for the cost of a trial or trials or any hearing of a person for the offense of homicide may apply to the Controller for reimbursement of the costs incurred by the county in excess of the amount of money derived by the county from a tax of 0.0125 of 1 percent of the full value of property assessed for purposes of taxation within the county.

The Controller shall not reimburse any county for costs that

exceed the State Board of Control's standards for travel and per diem expenses. The Controller may reimburse extraordinary costs in unusual cases if the county provides sufficient justification of the need for these expenditures.

This section shall become operative on January 1, 1991.

SEC. 5. Section 2 of Chapter 1469 of the Statutes of 1984 is amended to read:

Sec. 2. Section 1 of this act applies to any case in which a final judgment was not entered prior to January 1, 1985. All reimbursements made, pursuant to Section 1 of this act, shall be based upon financial need.

SEC. 6. The Legislative Analyst shall evaluate the findings made by the Office of Planning and Research in its study which was undertaken in accordance with the former provisions of Section 15202 of the Government Code, and the Legislative Analyst shall, no later than July 1, 1989, provide his or her recommendations as to possible legislative changes to the existing homicide reimbursement formula. In undertaking the study, and making his or her recommendations, the Legislative Analyst shall consider, among other things, the following: rural county fiscal conditions, actual resources available to rural counties, burden on rural county finances, and incentives for reasonable cost containment.

CHAPTER 988

An act to amend Section 1269b of the Penal Code, relating to bail.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 1269b of the Penal Code is amended to read:

1269b. (a) The officer in charge of a jail where an arrested person is held in custody, an officer of a sheriff's department or police department of a city who is in charge of a jail or employed at a fixed police or sheriff's facility and is acting under an agreement with the agency which keeps the jail wherein an arrested person is held in custody, an employee of a sheriff's department or police department of a city who is assigned by such department to collect bail, the clerk of the justice or municipal court of the judicial district in which the offense was alleged to have been committed, and the clerk of the superior court in which the case against the defendant is pending may approve and accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time and place for the appearance of the

arrested person before the appropriate court and give notice thereof.

(b) If a defendant has appeared before a judge of the court on the charge contained in the complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the time of the appearance; if that appearance has not been made, the bail shall be in the amount fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall be pursuant to the uniform countywide schedule of bail for the county in which the defendant is required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

(c) It is the duty of the superior, municipal and justice court judges in each county to prepare, adopt, and annually revise, by a majority vote, at a meeting called by the presiding judge of the superior court of the county, a uniform countywide schedule of bail for all bailable felony offenses.

In adopting a uniform countywide schedule of bail for all bailable offenses the judges shall consider the seriousness of the offense charged. In considering the seriousness of the offense charged the judges shall assign an additional amount of required bail for each aggravating or enhancing factor chargeable in the complaint, including, but not limited to, additional bail for charges alleging facts which would bring a person within any of the following sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2, 12022.3, 12022.4, 12022.5, 12022.6, 12022.7, 12022.8, or 12022.9 of the Penal Code, or Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount of required bail for offenses involving large quantities of controlled substances.

(d) The municipal and justice court judges in each county shall prepare, adopt, and annually revise, subject to Section 40310 of the Vehicle Code, by a majority vote, at a meeting called by the presiding judge of the municipal court or the senior judge of the justice court at each county seat, a uniform, countywide schedule of bail for all misdemeanor and infraction offenses. For nonparking Vehicle Code offenses where a personal appearance is not required, the bail for each offense shall be no more than 20 percent above or below the amount set forth by the Uniform Traffic Bail Schedule approved by the Judicial Council. The Judicial Council shall revise the Uniform Traffic Bail Schedule by January 1, 1989. The revision shall include the assignment of increased bail amounts for repeat offenders.

(e) Each countywide bail schedule shall contain a list of the offenses and the amounts of bail applicable thereto as the judges determine to be appropriate. If the schedules do not list all offenses specifically, they shall contain a general clause for designated amounts of bail as the judges of the county determine to be

appropriate for all the offenses not specifically listed in the schedules. A copy of the countywide bail schedule shall be sent to the officer in charge of the county jail, to the officer in charge of each city jail within the county, to each superior, municipal and justice court judge and commissioner in the county, and to the Judicial Council.

(f) Upon posting bail the defendant or arrested person shall be discharged from custody as to the offense on which the bail is posted.

All money and surety bonds so deposited with an officer authorized to receive bail shall be transmitted immediately to the judge or clerk of the court by which the order was made or warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge or clerk of the court shall transmit all of the money and surety bonds to the county clerk.

(g) If a defendant or arrested person so released fails to appear at the time and in the court so ordered upon his or her release from custody, Sections 1305 and 1306 apply.

SEC. 2. It is the intent of the Legislature that this act does not limit the establishment of bail for local ordinances, or offenses involving stopping, standing, or the parking of vehicles, by the municipal and justice court judges in each county.

CHAPTER 989

An act to amend Sections 24411, 25110, 25111, 25112, and 25115 of, to add Section 25401d to, to repeal and add Section 25114 of, and to repeal Section 25113 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 24411 of the Revenue and Taxation Code is amended to read:

24411. (a) For purposes of those taxpayers electing to compute income under Section 25110, 100 percent of the qualifying dividends described in subdivisions (c) and (h), 75 percent of the qualifying dividends described in subdivision (b), and 75 percent of the partially excluded dividends described in subdivision (d) to the extent not otherwise allowed as a deduction or eliminated from income. "Qualifying dividends" means those received by the water's-edge group from corporations if both of the following conditions are satisfied:

(1) The average of the property, payroll, and sales factors within the United States for the corporation is less than 20 percent.

(2) More than 50 percent of the total combined voting power of all classes of stock entitled to vote is owned directly or indirectly by

the water's-edge group.

(b) Qualifying dividends equal to the greatest amount of qualifying dividends as described in subdivision (a) received by the water's-edge group in any one of the income years constituting the base period.

(c) The amount of fully excluded qualifying dividends, if the greatest foreign payroll factor for any income year in the base period exceeds the foreign payroll factor for the income year, shall be determined as follows:

(1) The foreign payroll factor in the income year shall be subtracted from the greatest foreign payroll factor for any income year in the base period.

(2) The amount determined pursuant to paragraph (1) shall be divided by the greatest foreign payroll factor for any income year in the base period.

(3) The percentage determined in paragraph (2) shall be multiplied by the total qualifying dividends. The amount so determined shall be the amount of fully excluded qualifying dividends.

(4) The amount determined in paragraph (3) shall not exceed the amount of qualifying dividends in excess of the base dividends determined in subdivision (b).

(5) If the amount of fully excluded qualifying dividends determined pursuant to paragraph (3) is less than the amount of qualifying dividends in excess of the amount of base dividends determined pursuant to subdivision (b), the difference shall be added to the base dividends and the exclusion determined pursuant to subdivision (b).

(d) The amount of partially excluded qualifying dividends, if the greatest foreign payroll factor for any income year in the base period is the same as or less than the foreign payroll factor in the income year, shall be determined as follows:

(1) The greatest foreign payroll factor for any income year in the base period shall be subtracted from the foreign payroll factor in the income year.

(2) The amount determined pursuant to paragraph (1) shall be divided by the foreign payroll factor in the income year.

(3) The percentage determined in paragraph (2) shall be multiplied by the total qualifying dividends.

(4) The amount determined in paragraph (3) shall be subtracted from the amount of qualifying dividends in excess of the amount of base dividends determined in subdivision (b).

(5) The balance shall be the amount of partially excluded qualifying dividends. In no event shall that amount be less than zero.

(e) The base period shall consist of the 12-month income year ending before January 1, 1987, and the two immediately preceeding 12-month income years. No short income years shall be considered.

(f) The foreign payroll factor for an income year shall be a fraction, the numerator of which is the total amount paid outside the

United States during the income year for compensation by the water's-edge group and corporations which would have been combined with the water's-edge group had the election pursuant to Section 25110 not been made, and the denominator of which is the total compensation paid everywhere by the water's-edge group and corporations which would have been combined with the water's-edge group had the election pursuant to Section 25110 not been made during the income year. The amount and location of compensation shall be determined pursuant to Section 25133 and the regulations adopted pursuant thereto.

(g) The water's-edge group consists of banks or corporations whose income and apportionment factors are taken into account pursuant to Section 25110.

(h) The amount of fully excluded qualifying dividends derived from construction projects, the locations of which are not subject to the taxpayer's control.

For purposes of this subdivision:

(1) "Construction project" means any activity which meets the following requirements:

(A) Is undertaken for any entity, including a governmental entity, which is not affiliated with the taxpayer.

(B) The majority of its cost of performance is attributable to an addition to real property or an alteration of land or any improvement thereto as those terms are utilized for purposes of this code.

"Construction project" does not include the operation, rental, leasing, or depletion of real property, land, or any improvement thereto.

(2) "Locations of which are not subject to the taxpayer's control" means that the place at which the majority of the construction takes place results from the nature or character of the construction project and not as a result of the terms of the contract or agreement governing the construction project.

SEC. 2. Section 25110 of the Revenue and Taxation Code is amended to read:

25110. (a) Notwithstanding Section 25101, a qualified taxpayer, as defined in paragraph (2) of subdivision (b) which is subject to the tax imposed under this part, may elect to determine its income derived from or attributable to sources within this state pursuant to a water's-edge election in accordance with the provisions of this part, as modified by this article. A taxpayer which makes a water's-edge election shall take into account the income and apportionment factors of the following affiliated entities only:

(1) Affiliated banks or corporations which are eligible to be included in a federal consolidated return as described in Sections 1501 to 1505, inclusive, of the Internal Revenue Code, other than corporations making an election under Section 936 of the Internal Revenue Code.

(2) Domestic international sales corporations, as described in Sections 991 to 994, inclusive, of the Internal Revenue Code and

foreign sales corporations as described in Sections 921 to 927, inclusive, of the Internal Revenue Code.

(3) Any corporation, regardless of the place where it is incorporated if the average of its property, payroll, and sales factors within the United States is 20 percent or more.

(4) Banks and corporations which are incorporated in the United States, excluding corporations making an election pursuant to Sections 931 to 936, inclusive, of the Internal Revenue Code, of which more than 50 percent of their stock is controlled directly or indirectly by the same interests, which are not included in paragraph (1).

(5) A bank or corporation which is not described in paragraphs (1) to (4), inclusive, or paragraph (6), but only to the extent of its income derived from or attributable to sources within the United States and its factors assignable to a location within the United States in accordance with paragraph (3) of subdivision (b). Income of such a bank or corporation derived from or attributable to sources within the United States as determined by federal income tax laws shall be limited to and determined from the books of account maintained by the bank or corporation with respect to its activities conducted within the United States.

(6) Export trade corporations, as described in Sections 970 to 972, inclusive, of the Internal Revenue Code.

(7) Any affiliated bank or corporation which is a "controlled foreign corporation", as defined in Section 957 of the Internal Revenue Code, if all or part of the income of that affiliate is defined in Section 952 of Subpart F of the Internal Revenue Code ("Subpart F income"). The income and apportionment factors of any affiliate to be included under this paragraph shall be determined by multiplying the income and apportionment factors of that affiliate without application of this paragraph by a fraction (not to exceed one), the numerator of which is the "Subpart F income" of that bank or corporation for that income year and the denominator of which is the "earnings and profits" of that bank or corporation for that income year, as defined in Section 964 of the Internal Revenue Code.

(8) (A) The income and factors of the above-enumerated banks and corporations shall be taken into account only if the income and factors would have been taken into account under Section 25101 if this section had not been enacted.

(B) The income and factors of a bank or corporation which is not described in paragraphs (1) to (4), inclusive, and (6) and which is an electing taxpayer under this subdivision shall be taken into account in determining its income only to the extent set forth in paragraph (5).

(b) For purposes of this article and Section 24411:

(1) An "affiliated bank or corporation" means a bank or corporation which is related to a bank or corporation, required to file under this part, because of any of the following:

(A) It owns directly or indirectly more than 50 percent of the voting stock of the bank or corporation required to file under this

part.

(B) More than 50 percent of its voting stock is owned directly or indirectly by a bank or corporation required to file under this part.

(C) More than 50 percent of voting stock of both it and the bank or corporation required to file under this part is owned or controlled directly or indirectly by any bank or person (as defined in Section 7701(a)(1) of the Internal Revenue Code).

(2) A "qualified taxpayer" means a bank or corporation which does both of the following:

(A) Files with the state tax return on which the water's-edge election is made a consent to the taking of depositions at the time and place most reasonably convenient to all parties from key domestic corporate individuals and to the acceptance of subpoenas duces tecum requiring reasonable production of documents to the Franchise Tax Board as provided in Section 26423 or by the State Board of Equalization as provided in Title 18, California Code of Regulations, Section 5005, or by the courts of this state as provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of, and Section 2025 of, the Code of Civil Procedure. The consent relates to issues of jurisdiction and service and does not waive any defenses a taxpayer may otherwise have. The consent shall remain in effect so long as the water's-edge election is in effect and shall be limited to providing that information necessary to review or to adjust income or deductions in a manner authorized under Sections 482, 861, Subpart F of Part III of Subchapter N, or similar provisions of the Internal Revenue Code, together with the regulations adopted pursuant to those provisions, and for the conduct of an investigation with respect to any unitary business in which the taxpayer may be involved.

(B) Agrees that for purposes of this article, dividends received by any bank or corporation whose income and apportionment factors are taken into account pursuant to subdivision (a) from either of the following are functionally related dividends and shall be presumed to be business income:

(i) A bank or corporation of which more than 50 percent of the voting stock is owned, directly or indirectly, by members of the unitary group and which is engaged in the same general line of business.

(ii) Any bank or corporation which is either a significant source of supply for the unitary business or a significant purchaser of the output of the unitary business, or which sells a significant part of its output or obtains a significant part of its raw materials or input from the unitary business. "Significant," as used in this subparagraph, means an amount of 15 percent or more of either input or output.

All other dividends shall be classified as business or nonbusiness income without regard to this subparagraph.

(3) The definitions and locations of property, payroll, and sales shall be determined under the laws and regulations which set forth the apportionment formulas used by the individual states to assign

net income subject to taxes on or measured by net income in that state. If a state does not impose a tax on or measured by net income or does not have laws or regulations with respect to the assignment of property, payroll, and sales, the laws and regulations provided in Article 2 (commencing with Section 25120) shall apply.

Sales shall be considered to be made to a state only if the bank or corporation making the sale may otherwise be subject to a tax on or measured by net income under the Constitution or laws of the United States, and shall not include sales made to a bank or corporation whose income and apportionment factors are taken into account pursuant to subdivision (a) in determining the amount of income of the taxpayer derived from or attributable to sources within this state.

(4) "The United States" means the 50 states of the United States and the District of Columbia.

(c) All references in this part to income determined pursuant to Section 25101 shall also mean income determined pursuant to this section.

SEC. 3. Section 25111 of the Revenue and Taxation Code is amended to read:

25111. (a) A water's-edge election shall be made by contract with the Franchise Tax Board in the original return for a year and shall be effective only if every taxpayer which is a member of the water's-edge group and which is subject to tax under this part makes the election. A single taxpayer which is engaged in more than one business activity subject to allocation and apportionment as provided in Article 2 (commencing with Section 25120) of Chapter 17 may make a separate election for each business. The form and manner of making the water's-edge election shall be prescribed by the Franchise Tax Board. Each contract making a water's-edge election shall be for an initial term of five years, except as provided in subdivisions (b) and (c). Each contract shall provide that on the anniversary date of the contract or any other annual date specified by the contract a year shall be added automatically to the initial term unless notice of nonrenewal is given as provided in subdivision (e). Each contract shall be conditioned by an agreement to pay the amount specified in Section 25115. Except as provided in subdivisions (b) and (c), the Franchise Tax Board shall enter into a contract as provided by this section with any qualified taxpayer which wishes to make a water's-edge election. An affiliated bank or corporation which is a member of the water's-edge group and subsequently becomes subject to tax under this part shall be deemed to have elected. No water's-edge election shall be made for an income year beginning prior to the operative date of this article.

(b) A water's-edge election may be terminated by a taxpayer prior to the end of the five-year period if any of the following occurs:

(1) The taxpayer is acquired directly or indirectly by a nonelecting entity which alone or together with those affiliates included in its combined report is larger than the taxpayer as

measured by equity capital.

(2) The taxpayer ceases to be affiliated with any bank or corporation whose income and apportionment factors the taxpayer would be required to take into account in determining its income under Section 25101 but for the election and the taxpayer is not itself a bank or corporation doing business within and without the United States.

(3) With the permission of the Franchise Tax Board.

(4) Pursuant to a Franchise Tax Board audit determination, as evidenced by a notice of the deficiency proposed to be assessed or a notice of tax change, a substantial modification is made to the composition of the water's-edge group as filed, in which case the election may be terminated only with respect to income years beginning on or after January 1 of the year in which the audit determination is made.

No refund of any amounts paid pursuant to Section 25115 shall be made for those years during which the election was in effect.

(c) A water's-edge election may be disregarded by the Franchise Tax Board, only if any of the following occurs:

(1) A bank or corporation willfully fails to comply substantially with Section 25401d or any federal law requiring the filing of domestic spreadsheets.

(2) After a reasonable adjustment of transfer prices, royalty rates, the allocation of common expenses, and similar adjustments, the return filed pursuant to this section fails to prevent the wilful evasion of taxes.

(3) An otherwise qualified taxpayer willfully fails to do any of the following:

(A) Retain and make available upon request the documents and information, including any questionnaires completed and submitted to the Internal Revenue Service or qualified states, which are necessary to audit issues involving attribution of income to the United States or foreign jurisdictions under Sections 482, 861, 863, 902, and 904, and Subpart F of Part III of Subchapter N, or similar sections of the Internal Revenue Code.

(B) Identify, upon request, principal officers or employees who have substantial knowledge of, and access to, documents and records which discuss pricing policies, profit centers, cost centers, and the methods of allocating income and expense among these centers. The information shall include the employees' titles and addresses.

(C) Retain and make available upon request all documents and correspondence ordinarily available to a bank or corporation included in the water's-edge election which are submitted to or obtained from the Internal Revenue Service, foreign countries or their territories or possessions, and competent authority pertaining to ruling requests, rulings, settlement resolutions, and competing claims involving jurisdictional assignment and sourcing of income that affect the assignment of income to the United States. The documents shall include all ruling requests and rulings on

reorganizations involving foreign incorporation of branches, all ruling requests and rulings on changing a bank or corporation's jurisdictional incorporation, and all documents which are ordinarily available to a bank or corporation included in the water's-edge election which pertain to the determination of foreign tax liability, including examination reports issued by foreign taxing administrations. If the documents have been translated, the translations shall be furnished.

(D) Upon request, prepare and make available for each bank or corporation included in the disclosure spreadsheet referred to in Section 25401d in which the taxpayer is included, a list of each state of the United States, including the District of Columbia, territories or possessions, and each foreign country in which it has payroll, property, or sales. The sales shall be determined by destination whether or not the taxpayer is taxable in the destination jurisdiction.

(E) Retain and make available, upon request, forms filed with the Internal Revenue Service to comply with Sections 6038, 6038A, and 6041 of the Internal Revenue Code.

(F) Upon request, prepare and make available for each bank or corporation organized or created under the laws of the United States or a political subdivision thereof, of which 50 percent or more of its voting stock is directly or indirectly owned or controlled, the information which would be included in the forms described in subparagraph (E) if those forms were required for United States corporations.

(G) Retain and make available, upon request, all state tax returns filed by each bank or corporation included under subdivision (a) in each state, including the District of Columbia.

(H) Comply with reasonable requests for information necessary to determine or verify its net income, apportionment factors, or the geographic source of that income pursuant to the Internal Revenue Code.

(I) For purposes of this subdivision, information for any year shall be retained for that period of time in which the taxpayer's income or franchise tax liability to this state may be subject to adjustment, including all periods in which additional income or franchise taxes may be assessed or during which an appeal is pending before the State Board of Equalization or a lawsuit is pending in the courts of this state or the United States with respect to California franchise or income tax.

(d) The taxpayer shall be provided 90 days' prior written notice that the Franchise Tax Board intends to disregard a water's-edge election under subdivision (c). The taxpayer shall have the right to seek review in the superior court of the Franchise Tax Board's intended decision to disregard the election.

(e) In disregarding an election or in granting a change of election, the Franchise Tax Board shall impose any conditions which are necessary to prevent the avoidance of tax or clearly reflect income for the period the election was, or was purported to be, in effect.

These conditions may include a requirement that income, including dividends paid from income earned while a water's-edge election was in effect, which would have been included in determining the income of the taxpayer from sources within and without this state pursuant to Section 25101 but for the water's-edge election shall be included in income in the year in which the election is changed or disregarded.

(f) If the taxpayer desires in any year not to renew the contract, the taxpayer shall serve written notice of nonrenewal of the contract upon the board in advance of the annual renewal date of the contract. Unless that written notice is served by the taxpayer at least 90 days prior to the renewal date, the contract shall be considered renewed as provided in subdivision (a).

(g) If the taxpayer serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be.

SEC. 4. Section 25112 of the Revenue and Taxation Code is amended to read:

25112. (a) If a taxpayer electing under Section 25110 fails to supply any required information, in addition to being subject to disqualification by the Franchise Tax Board pursuant to Section 25111 and to any penalties otherwise provided by this part, the taxpayer shall pay a penalty of one thousand dollars ($1,000) for each income year with respect to which the failure occurs.

(b) If the failure continues for more than 90 days after the date on which the Franchise Tax Board mails notice of that failure to the taxpayer, the taxpayer shall pay a penalty (in addition to the amount required under subdivision (a)) of one thousand dollars ($1,000) for each 30-day period (or fraction thereof) during which the failure continues after the expiration of the 90-day period. The increase in any penalty under this subdivision shall not exceed twenty-four thousand dollars ($24,000).

(c) If the taxpayer fails to comply substantially with any formal document request arising out of the examination of the tax treatment of any item (hereinafter in this section referred to as the "examined item") before the 90th day after the date of the mailing of the request, any court having jurisdiction of a civil proceeding in which the tax treatment of the examined item is an issue may, upon motion by the Franchise Tax Board, prohibit the introduction by the taxpayer of documentation covered by that request.

(d) For purposes of this section, the time in which information is to be furnished (and the beginning of the 90-day period after notice by the Franchise Tax Board) shall be treated as beginning not earlier than the last day on which reasonable cause existed for failure to furnish the information.

(e) This section shall not apply with respect to any requested documentation if the taxpayer establishes that the failure to provide the documentation, as requested by the Franchise Tax Board, is due

to reasonable cause. For purposes of subdivision (c), the fact that a foreign jurisdiction would impose a civil or criminal penalty on the taxpayer (or any other person) for disclosing the requested documentation is not reasonable cause unless, after in camera review of the documentation, the court finds otherwise.

(f) For purposes of this section, the term "formal document request" means any request (made after the normal request procedures have failed to produce the requested documentation) for the production of documentation which is mailed by registered or certified mail to the taxpayer at its last known address and which sets forth all of the following:

(1) The time and place for the production of the documentation.

(2) A statement of the reason the documentation previously produced (if any) is not sufficient.

(3) A description of the documentation being sought.

(4) The consequences to the taxpayer of the failure to produce the documentation described in this section.

(g) Notwithstanding any other law or rule of law, any taxpayer to whom a formal document request is mailed may begin a proceeding to quash that request not later than the 90th day after the date the request was mailed. In any such proceeding, the Franchise Tax Board may seek to compel compliance with the request.

(h) The superior courts of the State of California for the Counties of Los Angeles, Sacramento, and San Diego, and for the City and County of San Francisco shall have jurisdiction to hear any proceeding brought under subdivision (g). An order denying the petition shall be deemed a final order which may be appealed.

The running of the 90-day period referred to in subdivision (b) shall be suspended during any period during which a proceeding brought under subdivision (g) is pending.

(i) For purposes of this section, "documentation" means any documentation which may be relevant or material to the tax treatment of the examined item.

(j) The Franchise Tax Board, and any court having jurisdiction over a proceeding under subdivision (g), may extend the 90-day period referred to in subdivision (b).

(k) If any bank or corporation takes any action as provided in subdivision (g), the running of any period of limitations under Sections 25663 to 25663d, inclusive (relating to the assessment and collection of tax), or under Section 25964 (relating to criminal prosecutions) with respect to that bank or corporation shall be suspended for the period during which the proceedings under subdivision (g) and appeals thereto are pending.

SEC. 5. Section 25113 of the Revenue and Taxation Code is repealed:

SEC. 6. Section 25114 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 25114 is added to the Revenue and Taxation Code, to read:

25114. (a) The Franchise Tax Board, for purposes of administering the provisions of this article, shall examine the returns filed by taxpayers subject to these provisions. Where this examination reveals potential noncompliance, a detailed examination shall be made, notwithstanding the potential net revenue benefit to the state, unless the taxpayer is being examined by the Internal Revenue Service for the same year or years on the same issues.

(b) (1) In any case of two or more organizations, trades, or businesses (whether or not organized in the United States and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Franchise Tax Board may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among these organizations, trades, or businesses, if the board determines that the distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of these orga izations, trades, or businesses. In the case of any transfer (or li ense) of intangible property (within the meaning of Section 936(h) (3) (B) of the Internal Revenue Code), the income with respect to that transfer or license shall be commensurate with the income attributable to the intangible property.

(2) In making distributions, apportionments, and allocations under this section, the Franchise Tax Board shall generally follow the rules, regulations, and procedures of the Internal Revenue Service in making audits under Section 482 of the Internal Revenue Code. Any of these rules, regulations, and procedures adopted by the Franchise Tax Board shall not be subject to review by the Office of Administrative Law.

(3) If the Internal Revenue Service has conducted a detailed audit under Section 482 of the Internal Revenue Code and has made adjustments pursuant to that section, it shall be presumed that no further adjustments are necessary for this state's purposes. If the Internal Revenue Service has conducted a detailed audit under Section 482 of the Internal Revenue Code and has made or proposed no adjustments to the transaction examined, it shall be presumed that no adjustment is necessary for this state's purposes. These presumptions shall be overcome if the Franchise Tax Board or the taxpayer demonstrates that an adjustment or a failure to make an adjustment was erroneous, if it demonstrates that the results of such an adjustment would produce a minimal tax change for federal purposes because of correlative or offsetting adjustments or for other reasons, or if substantially the same federal tax result was obtained under other sections of the Internal Revenue Code. No inference shall be drawn from an Internal Revenue Service failure to audit international transactions under Section 482 of the Internal Revenue Code and it shall not be presumed that any of those transactions were correctly reported.

SEC. 8. Section 25115 of the Revenue and Taxation Code is

amended to read:

25115. (a) Each contract described in Section 25111 shall provide that a taxpayer making a water's-edge election pursuant to this article shall pay an annual amount to the Franchise Tax Board for deposit in the California Unitary Fund created pursuant to Section 16429.30 of the Government Code. One-third of the amount shall be deposited in the Local Project Account for Non-Transient Spending in the California Unitary Fund, and two-thirds of the amount shall be deposited in the Future Infrastructure State Targeted Account in the California Unitary Fund.

(b) The amount shall be equal to thirty-thousandths of 1 percent of the sum of the taxpayer's property and payroll assigned to this state for an income year of 12 full months ending during the calendar year 1986 and its sales assigned to this state for the current income year. A single corporation which is engaged in more than one business for which it is making separate elections shall determine the amount as provided in this section for each business for which it is electing to determine its income pursuant to Section 25110.

(c) The sum of the property, payroll, and sales, as calculated pursuant to subdivision (b) shall be reduced by the cumulative amount expended since January 1, 1987, for investment in new plants or facilities in this state, as defined in subdivision (d), and shall further be reduced by the amount expended for new employees in this state as defined in subdivision (f).

(d) A new plant or facility is property described in Section 70, constructed by or for the taxpayer, or new tangible personal property, the original use of which commences with the taxpayer in this state, provided that it is not a replacement, in whole or in part, for an existing plant or facility in this state. For purposes of this subdivision, "new tangible personal property" means the current year's acquisition of personal property classified as "machinery and equipment for industry, profession, or trade," "tools, molds, dies, jigs," and "computers and related equipmment," as reported to either the county assessor pursuant to Section 441 or the State Board of Equalization pursuant to Section 826. A plant or facility shall be deemed a replacement if the taxpayer, or an affiliated bank or corporation, as defined in paragraph (1) of subdivision (b) of Section 25110, closes. takes out of service, sells, or leases to an unrelated party, in either the three immediately preceding or the three immediately succeeding years from the time the new plant or facility is operational, a plant or facility with a cost basis equal to 25 percent or more of the cost basis of the new plant or facility.

(e) The number of new employees in this state for any income year shall be determined by comparing the total number of work years in this state for the income year to the greater of (1) the average of the total number of work years in this state for the income years ending in 1985, 1986, and 1987, or (2) the total number of work years in this state for the income year ending in 1987. A "work year" means, in the case of workers who are paid an hourly wage, 2,000 paid

hours, and in the case of salaried employees, a total of 12 paid months.

(f) The amount expended for new employees shall be equal to the product of the number of new employees determined pursuant to subdivision (e) and the average wages paid for each work year in this state for the income year.

(g) Each contract shall provide that the amount described in this section shall not be subject to any statutory changes, for the period the contract is in effect, without the consent of the taxpayer. Any statutory change shall be applicable for any renewal year beginning five years after that statutory change.

(h) Amounts determined pursuant to this section shall be collected and refunded in the same manner as the taxes imposed by this part and shall be subject to interest and penalties as provided in this part.

(i) In no event shall the amount determined pursuant to this section be less than ten-thousandths of 1 percent of the sum of the taxpayer's property, payroll, and sales in this state for the current year.

(j) For purposes of this section, the bank's or corporation's property, payroll, and sales in this state shall be determined pursuant to Article 2 (commencing with Section 25120) of Chapter 17, and regulations adopted pursuant thereto, except that both of the following shall apply:

(1) Property shall include only property defined in Sections 25129 to 25131, inclusive.

(2) Sales shall not include gross receipts from the sale of real property and improvements thereto and the sale of the stock of a subsidiary unless that activity occurs as a regular part of the taxpayer's business.

(k) The annual amount otherwise determined pursuant to this section and payable under a contract described in Section 25111 shall not be imposed for an income year in which a taxpayer incurs no tax liability under Sections 25101 and 25110.

(*l*) If a taxpayer is reorganized into two or more separate entities, the 1986 property and payroll factors for the new entities shall be determined by the ratio of current property and payroll factors, excluding intangible property, for each new entity subject to tax in California to the total for all entities subject to tax in California for the year in which those entities are created. This ratio shall be applied to 1986 property and payroll and each entity shall be allocated a portion of the 1986 payments and payroll based on this ratio.

(m) Notwithstanding Section 24345, the amount imposed by this section shall be allowed as a deduction in computing the taxes imposed by this part.

SEC. 9. Section 25401d is added to the Revenue and Taxation Code, to read:

25401d. (a) Any taxpayer making the election under Section 25110 shall file with the Franchise Tax Board within six months after

the bank or corporation files its California return required under this part a domestic disclosure spreadsheet if it and its related banks' or corporations' payroll, property, or sales in foreign countries exceeds ten million dollars ($10,000,000) or if it and its related banks' or corporations' total assets exceed two hundred fifty million dollars ($250,000,000), or such higher levels as may be subsequently established by regulation.

(b) The domestic disclosure spreadsheet shall be filed once every three years, unless there is a substantial change in the taxpayer's business activities, in which case it shall be filed for the year in which the change occurs.

(c) For purposes of this section, banks and corporations are related if more than 50 percent of the voting stock of one is directly or indirectly owned or controlled by the other or if more than 50 percent of the voting stock of both is directly or indirectly owned or controlled by the same interest.

(d) The spreadsheet shall provide for full disclosure as to the income reported to each state, the state tax liability, and the method used for apportioning or allocating income to the states, and any other information as provided for by regulations as may be necessary to determine the amount of taxes due to each state and to identify the corporate parent and those of its affiliates of which more than 20 percent of the voting stock is directly or indirectly owned or controlled by the parent.

(e) The spreadsheet shall be reviewed for completeness by the Franchise Tax Board and if it is not properly completed shall not be accepted and shall be subject to penalties.

(f) This section shall not apply to any bank or corporation with regard to any year if that bank's or corporation's payroll, property, and sales within the United States are each less than five hundred thousand dollars ($500,000).

(g) The Auditor General shall review the utility of the spreadsheet to the Franchise Tax Board's audits and shall submit a preliminary report of its findings to the Legislature by December 31, 1991, and a final report by December 31, 1994.

SEC. 10. The provisions of this act shall be applicable in the computation of taxes for income years commencing on or after January 1, 1988.

SEC. 11. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 990

An act to amend Section 12024.12 of the Business and Professions Code, relating to kosher food, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 12024.12 of the Business and Professions Code is amended to read:

12024.12. (a) Any person who sells fresh meat or poultry advertised or represented to be kosher shall retain, on the premises, for one year, a true and legible copy of all invoices and records of cash or charge transactions from the packer or producer of the kosher meat or poultry and shall make these documents, and other evidence of the source of the meat being housed or sold by that person, available for inspection by the Department of Food and Agriculture or its representatives, upon request.

(b) Notwithstanding any other provision of law, the Director of Food and Agriculture shall enforce this section, as a pilot program in the Counties of Alameda, Los Angeles, Orange, San Diego, and Santa Clara and the City and County of San Francisco if adequate funding, as determined by the director, is made available.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. The Department of Food and Agriculture shall evaluate the effectiveness of the pilot program conducted pursuant to Section 12024.12 of the Business and Professions Code, and shall report to the Legislature on its effectiveness by January 1, 1994. The effectiveness of the pilot program shall be demonstrated by a reduction of not less than 75 percent in allegations of fraudulent kosher meat products made to the Attorney General and to appropriate consumer agencies since the program's inception on August 1, 1985. The evaluation shall include a determination of the cost effectiveness of the pilot program and recommendations regarding whether it should be continued, reduced, expanded, or modified. The department shall use not more than 7 percent of the program's final year appropriation for purposes of preparing the report to the Legislature.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 4. The sum of seventy thousand dollars ($70,000) is hereby

appropriated from the General Fund to the Department of Food and Agriculture to carry out Section 12024.12 of the Business and Professions Code.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure a continuing supply of genuine, high-quality kosher meat in this state, it is necessary that this act take effect immediately.

CHAPTER 991

An act to amend Section 5497 of the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 5497 of the Business and Professions Code is amended to read:

5497. A city or county, whose ordinances or regulations were introduced or adopted after March 12, 1983, or any amendments to those ordinances and regulations, is not in violation of Section 5491 if it elects to require the removal, without compensation, of any on-premise advertising display which meets any of the following criteria:

(a) Any advertising display erected without first complying with all ordinances and regulations in effect at the time of its construction and erection or use.

(b) Any advertising display which was lawfully erected anywhere in this state, but whose use has ceased, or the structure upon which the display has been abandoned by its owner, for a period of not less than 90 days. Costs incurred in removing an abandoned display may be charged to the legal owner.

(c) Any advertising display which has been more than 50 percent destroyed, and the destruction is other than facial copy replacement, and the display cannot be repaired within 30 days of the date of its destruction

(d) Any advertising display whose owner, outside of a change of copy, requests permission to remodel and remodels that advertising display, or expand or enlarge the building or land use upon which the advertising display is located, and the display is affected by the construction, enlargement, or remodeling, or the cost of construction, enlargement, or remodeling of the advertising display exceeds 50 percent of the cost of reconstruction of the building.

(e) Any advertising display whose owner seeks relocation thereof and relocates the advertising display.

(f) Any advertising display for which there has been an agreement between the advertising display owner and the city or county, for its removal as of any given date.

(g) Any advertising display which is temporary.

(h) Any advertising display which is or may become a danger to the public or is unsafe.

(i) Any advertising display which constitutes a traffic hazard not created by relocation of streets or highways or by acts of any city or county.

(j) Ordinances adopted by a city within three years of its incorporation, which incorporation occurs after March 12, 1982, shall not be subject to Section 5491 except as provided by Section 5494.

(k) Notwithstanding subdivision (j), for any city or county incorporated after January 1, 1989, an ordinance initially adopted within three years of incorporation, or any amendment thereto within that three-year period, may require removal without compensation, except that no removal without compensation may be required within 15 years from the effective date of that ordinance or amendment.

CHAPTER 992

An act to amend Sections 75006, 75033.5, 75060.6, 75075, 75076, and 75076.5 of, and to add Section 75006.6 to, the Government Code, relating to the Judges' Retirement System.

[Approved by Governor September 19, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 75006 of the Government Code is amended to read:

75006. Any allowance payable to a retired judge or to a surviving spouse or to an eligible surviving child which has accrued and remained unpaid at the time of the judge's or the surviving spouse's or surviving child's death, or any unclaimed warrant issued prior to the date of death and returned to the system, shall be paid to:

(a) The survivor entitled to an allowance payable by this system.

(b) The beneficiary designated by the surviving spouse, eligible surviving child, or retired judge if there is no eligible survivor.

(c) The estate of the deceased, if there is no one entitled under subdivision (a) or (b).

SEC. 2. Section 75006.6 is added to the Government Code, to read:

75006.6. The surviving spouse or eligible surviving child of a

deceased judge who is receiving a monthly allowance from the Judges' Retirement System, or a retired judge, if there is no spouse or eligible child, may designate a beneficiary to receive the pro rata allowance remaining payable in the month of his or her death. The designation may be made, changed or revoked at any time, provided that it is made in writing and filed with the Judges' Retirement System.

SEC. 3. Section 75033.5 of the Government Code is amended to read:

75033.5. Notwithstanding any other provision of this chapter, any judge with at least five years of service, and prior to attaining age 70, may retire, and upon his or her application therefor to the Judges' Retirement System after reaching the age which would have permitted him or her to retire for age and length of service under Section 75025 had he or she remained continuously in service as a judge up to such age, receive a retirement allowance based upon the judicial service as a judge of a court of record, with which he or she is credited, in the same manner as other judges, except as otherwise provided by this section the retirement allowance is an annual amount equal to 3.75 percent of the compensation payable, at the time payments of the allowance fall due, to the judge holding the office which the retired judge last held prior to his or her discontinuance of his or her service as judge, multiplied by the number of years and fractions of years of service with which the retired judge is entitled to be credited at the time of his or her retirement, not to exceed 20 years.

If a judge has served more than five years but less than 12 years, the above percentage of compensation payable shall be reduced 0.25 percent for each year that the service of the judge is less than 12 years.

No judge shall be eligible to receive an allowance pursuant to this section until the attainment of at least age 63 unless the judge is credited with 20 years of judicial service and has attained age 60.

The surviving spouse of any judge who has so elected to retire under this section shall receive for life an allowance equal to one-half of the retirement allowance that would be payable to the judge were he or she living and receiving the benefits accorded by this section, commencing with the day following the date of the death, if the judge dies after commencement of receipt of benefits, or the date the judge would have been able to commence receipt of benefits but for his or her death, if his or her death occurs prior to commencement of receipt of benefits.

An election to retire under this section shall be made in writing and filed with the Judges' Retirement System, and shall be without right of revocation, and upon such filing said judge shall be deemed retired with receipt of benefits deferred until herein provided, and the judicial office from which he or she has retired shall become vacant. Said notice and election of retirement shall be sufficient if it states in substance that said judge elects to retire under the benefits

of this section.

A judge who leaves his or her office to accept any lucrative office under the United States within the purview of Section 7 of Article VII of the Constitution shall have any benefits receivable hereunder reduced by the amount of any salary or retirement benefits he or she receives by virtue of his or her service in such office.

SEC. 4. Section 75060.6 of the Government Code is amended to read:

75060.6. The Commission on Judicial Performance, in its discretion, and from time to time, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 5. Section 75060.6 of the Government Code is amended to read:

75060.6. The Comission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 6. Section 75075 of the Government Code is amended to read:

75075. Any judge hereafter retiring pursuant to the provisions of

Section 75025 or 75060 may elect to receive the benefits accorded by this article (a) if he or she retires for service or disability on the day of attainment of the age of 70 years, or prior thereto, or (b) regardless of age at retirement, if he or she is a judge on September 18, 1959, or his or her commission was issued on or before that date and (1) retires within five years after such date or (2) if not eligible to retire within said five-year period, he or she retires within two years after he or she attains eligibility or (c) if he or she retires for disability after the attainment of age 70.

Every judge who qualifies under this section shall be deemed to elect to receive the benefits accorded by this article, unless he or she makes an election to the contrary by filing written notice thereof with the Judges' Retirement System at or prior to retirement.

Any judge whose service would qualify him or her for any benefits under this article if the total of the service included an additional 30 days, shall be deemed to have credited to him or her, sufficient service to qualify for the benefit.

SEC. 7. Section 75076 of the Government Code is amended to read:

75076. (a) A judge who qualifies, as prescribed in Section 75075, to receive the benefits accorded by this article shall receive a retirement allowance equal to 65 percent of the salary payable, at the time payment of the allowance falls due, to the judge holding the judicial office to which he or she was last elected or appointed; except that if upon retirement a judge has received credit for 20 or more years of service rendered prior to the expiration of the time within which the judge is eligible to elect to receive the benefits accorded by this article and for which he or she has contributed to the Judges' Retirement Fund his or her retirement allowance shall equal 75 percent of such salary or if he or she retires pursuant to Section 75060 after he or she attains age 70, his or her retirement allowance shall equal 50 percent unless he or she elects an actuarially reduced allowance based on his or her life and that of his or her spouse as provided under Section 75070.

(b) Any judge retiring after the effective date of this subdivision who has or shall become entitled to credit for service as a judge of a court of record prior to the inclusion of the judges of such courts, or of all such courts, under the Judges' Retirement Law, or as a "judge of an excluded court" as defined by Section 75029, or as a "constitutional officer" or "public legal officer" as defined by Section 75030.5, without having contributed therefor to the Judges' Retirement Fund, may at any time prior to retirement contribute for all or any part of such service by paying into the fund a sum of money computed by applying to the rate of salary which he or she actually received during his or her first year of service as a judge the rate of deduction first applicable to his or her salary as a judge after the inclusion of the judges of his or her court under the Judges' Retirement Law, multiplied by the period of service for which contributions are elected to be made, plus interest at 3 percent a year

to the date of his or her payment upon the amounts of such deductions and from the respective dates they would have been made if he or she had been the holder of a judicial office subject to the provisions of the Judges' Retirement Law at the time of the rendition of the services for which he or she has received or hereafter receives such credit.

This subdivision shall apply also to any judge who has retired prior to the effective date of this subdivision and subsequent to September 18, 1959, provided such judge shall file his or her election and make such contribution with respect to prior service, as authorized hereunder, within one year after the effective date of this subdivision. Any change in the retirement benefits to any such judge which results from such contribution on prior service shall become effective and shall accrue from the date of filing such election and payment of such contribution as authorized hereunder.

The amount of any contribution hereunder and interest thereon shall be determined by the Judges' Retirement System in accordance with this subdivision.

(c) If the judge retires pursuant to Section 75025, the allowance is payable during the remainder of his or her life; if pursuant to Section 75060, it is payable as provided in Section 75060.6.

SEC. 8. Section 75076.5 of the Government Code is amended to read:

75076.5. Notwithstanding any other provision of law, in no event shall an allowance payable pursuant to this chapter to a retired member on the effective date of a reduction in judges' salaries ever be reduced to an amount less than the amount produced by multiplying the amount of the highest salary the retired member was paid while serving as a judge by the following percentages:

(a) For an allowance computed pursuant to Section 75032, 50 percent.

(b) For an allowance computed pursuant to the first clause of subdivision (a) of Section 75076, 65 percent.

(c) For an allowance computed pursuant to the second clause of subdivision (a) of Section 75076, 75 percent.

(d) For an allowance computed pursuant to Section 75033 or 75033.5, the percentage used to calculate the original retirement allowance pursuant to Section 75033 or 75033.5.

SEC. 9. Section 5 of this bill incorporates amendments to Section 75060.6 of the Government Code proposed by both this bill and AB 1562. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 75060.6 of the Government Code, and (3) this bill is enacted after AB 1562, in which case Section 4 of this bill shall not become operative.

CHAPTER 993

An act to amend Sections 75060.6 and 75061 of, and to add Sections 75033.2, 75062, 75063, and 75064 to, the Government Code, relating to judges.

[Approved by Governor September 19, 1988. Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 75033.2 is added to the Government Code, to read:

75033.2. A judge who pleads guilty or no contest or is found guilty of a crime committed while holding judicial office which is punishable as a felony under California or federal law and which either involves moral turpitude under that law or was committed in the course and scope of performing the judge's duties, and the conviction becomes final shall not receive any benefits from the Judges' Retirement System, except that the amount of his or her accumulated contributions shall be paid to him or her by the Judges' Retirement System.

SEC. 2. Section 75060.6 of the Government Code is amended to read:

75060.6. Except as provided in Section 75060.5, every judge who retires pursuant to Section 75060 shall during the remainder of his or her life, receive an allowance equal to one-half of the salary payable, at the time the allowance falls due, to the judge holding the judicial office to which he or she was last elected by the people. The allowance shall be paid by the state at the times and in the manner provided for the payment of salaries of justices of the Supreme Court.

The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 3. Section 75060.6 of the Government Code is amended to read:

75060.6. The Commission on Judicial Performance, in its discretion, but not more often than once every two years, may require any judge who is receiving an allowance under this section and who is under the age of 65 years to undergo medical examination. The examination shall be made by one or more physicians or surgeons, appointed by the Commission on Judicial Performance, at the place of residence of the judge or other place mutually agreed upon. Upon the basis of the examination the commission shall determine whether he or she is still incapacitated, physically or mentally, for service as a judge. If the commission determines, on the basis of the results of the medical examination, that he or she is not so incapacitated, he or she shall be a judicial officer of the state, but shall not exercise any of the powers of a justice or judge except while under assignment to a court by the Chairman of the Judicial Council. The allowance of the judge shall cease if he or she refuses an assignment while he or she is not so incapacitated. The provisions of Section 68543.5 are applicable to such a judge. The provisions of this section and of Section 75060 are applicable to all judges of courts of record in this state.

SEC. 4. Section 75061 of the Government Code is amended to read:

75061. A judge shall not be eligible to be retired for disability unless the judge is credited with at least four years of judicial service or unless the disability is a result of injury or disease arising out of and in the course of judicial service.

SEC. 5. Section 75062 is added to the Government Code, to read:

75062. A judge who applies for disability retirement and against whom there is pending a criminal charge of the commission of, or who has been convicted of, a felony under California or federal law (allegedly committed or committed while holding judicial office), prior to the approval of the application:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

SEC. 6. Section 75063 is added to the Government Code, to read:

75063. A judge against whom there is pending a disciplinary proceeding which could lead to his or her removal from office or who has been removed from office for judicial misconduct, prior to the approval of his or her application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

SEC. 7. Section 75064 is added to the Government Code, to read:

75064. A member who is defeated at an election and who either had submitted, prior to the date of the election, an application for disability retirement or submits, on or after the date of the election, an application for disability retirement:

(a) Shall be presumed not to be disabled and this presumption is a presumption affecting the burden of proof.

(b) Shall, in a disability retirement proceeding before the commission, be subject to the standard of proof of clear and convincing evidence sufficient to sustain a claim to a reasonable certainty.

(c) Shall support the application with written statements described in subdivision (c) of Section 75060 from each of at least two physicians or two psychiatrists.

SEC. 8. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 9. Section 3 of this bill incorporates amendments to Section 75060.6 of the Government Code proposed by both this bill and AB 4384. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 75060.6 of the Government Code, and (3) this bill is enacted after AB 4384, in which case Section 2 of this bill shall not become operative.

CHAPTER 994

An act relating to off-highway vehicles, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

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

SECTION 1. The sum of two hundred one thousand dollars ($201,000) is hereby appropriated from the Off-Highway Vehicle Fund to the Division of Off-Highway Motor Vehicle Recreation in the Department of Parks and Recreation for a grant pursuant to

Chapter 1.25 (commencing with Section 5090.01) of Division 5 of the Public Resources Code to the County of Los Angeles for completion of master planning and environmental reports for the proposed Whitney Canyon Off-Highway Vehicle Park and its link to the off-highway vehicle trails system of the Angeles National Forest.

SEC. 2. The environmental impact report under Section 1 of this act shall include a dust assessment and an off-highway noise assessment by an acoustical consulting company.

The testing for impact on film and television production shall be comprehensive and extend beyond the sensitivity for a human residential environment. Impacts on the nearby film or television production sites shall be assessed by criteria accounting for identifiable intrusive noise. At a minimum, ambient sound at production sites shall be monitored on an hourly basis to determine the lowest hourly background noise levels against which maximum hourly intrusive noise shall be assessed.

The ambient sound shall be measured in the loudest frequency ranges produced by off-highway vehicle park operations. All measurements shall comply with American National Standards S 1.13 as then currently in effect, using the slow time constant, and 24-hour noise monitoring shall be required at a minimum of three typical recording locations at each production sites.

The consulting company shall work in cooperation with sound department personnel and outside sound consultants hired in connection with the management of production sites.

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

In order for the planning of a proposed off-highway vehicle park to be completed at the earliest opportunity, it is necessary that this act take effect immediately.

CHAPTER 995

An act to amend Sections 51010, 51014.3, 51014.5, 51015, 51018, 51019, and 51019.1 of, and to repeal Sections 51016, 51017, 51018.5, and 51020 of, the Government Code, relating to pipeline safety.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 51010 of the Government Code is amended to read:

51010. It is the intent of the Legislature, in enacting this chapter, that the State Fire Marshal shall exercise exclusive safety regulatory

and enforcement authority over intrastate hazardous liquid pipelines and, to the extent authorized by agreement between the State Fire Marshal and the United States Secretary of Transportation, and may act as agent for the United State Secretary of Transportation to implement the federal Hazardous Liquid Pipeline Safety Act (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations as to those portions of interstate pipelines located within this state, as necessary to obtain annual federal certification.

SEC. 2. Section 51014.3 of the Government Code is amended to read:

51014.3. (a) Each pipeline operator shall notify the State Fire Marshal and the local fire department having fire suppression responsibilities at least three working days prior to conducting a hydrostatic test which is required by this chapter. The notification shall include all of the following information:

(1) The name, address, and telephone number of the pipeline operator.

(2) The specific location of the pipeline section to be tested and the location of the test equipment.

(3) The date and time the test is to be conducted.

(4) The test medium.

(5) The name and telephone number of the independent testing firm or person responsible for certification of the test results.

(b) The State Fire Marshal may observe tests conducted pursuant to this chapter.

SEC. 3. Section 51014.5 of the Government Code is amended to read:

51014.5. (a) When hydrostatic testing is required by Section 51013.5, the test results shall be certified by an independent testing firm or person who is selected from a list, provided by the State Fire Marshal, of independent testing firms or persons approved annually by the State Fire Marshal. The State Fire Marshal may charge a fee for consideration and approval of an independent testing firm or person pursuant to this subdivision, not to exceed the reasonable costs of that consideration and approval.

(b) The results of the tests required by Section 51013.5 shall be submitted by the independent testing firm or person within 30 days after completion of the test to the State Fire Marshal, who may review the results. The report shall show all of the following information:

(1) The date of the test.

(2) A description of the pipeline tested including a map of suitable scale showing the route of the pipeline.

(3) The results of the test.

(4) Any other test information that may be specifically requested by the State Fire Marshal.

(c) The State Fire Marshal shall not supervise, control, or otherwise direct the testing.

SEC. 4. Section 51015 of the Government Code is amended to

read:

51015. (a) Every pipeline operator shall provide to the fire department having fire suppression responsibilities a map or suitable diagram showing the location of the pipeline and a contingency plan for pipeline emergencies.

(b) A pipeline operator shall make available to the State Fire Marshal, or any officers or employees authorized by the State Fire Marshal, upon presentation of appropriate credentials, any records, maps, and written procedures that are required, by this chapter, to be kept by the pipeline operator and which concern accident reporting, design, construction, testing, or operation and maintenance.

The State Fire Marshal, or any officer or employee authorized by the State Fire Marshal, may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with this chapter.

(c) Every pipeline operator shall offer to meet with the local fire department having fire suppression responsibilities at least once each calendar year to discuss and review contingency plans for pipeline emergencies.

SEC. 5. Section 51016 of the Government Code is repealed.

SEC. 6. Section 51017 of the Government Code is repealed.

SEC. 7. Section 51018 of the Government Code is amended to read:

51018. (a) Every rupture, explosion, or fire involving a pipeline, including a pipeline system otherwise exempted by subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported to the fire department having fire suppression responsibilities and to the Office of Emergency Services.

(b) For purposes of this section, "rupture" includes every unintentional liquid leak, except that a crude oil leak of less than five barrels from a pipeline or flow line in a rural area, or any crude oil leak in any in-plant piping system, when no fire, explosion, or bodily injury results or no waterway is contaminated thereby, does not constitute a rupture for purposes of the reporting requirements of subdivision (a).

(c) This section does not preempt any other applicable federal or state reporting requirement.

SEC. 8. Section 51018.5 of the Government Code is repealed.

SEC. 9. Section 51019 of the Government Code is amended to read:

51019. The State Fire Marshal may assess and collect from every pipeline operator an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. A pipeline operator shall pay this fee when billed by the State Fire Marshal. The State Fire Marshal may impose a delinquency fee of 10 percent of the

annual fee if the pipeline operator does not pay the fee within 60 days after receipt of the bill, and, in addition, the pipeline operator shall pay interest on that portion of its annual fee not paid within 60 days at the rate of 15 percent per annum from the date of receipt of the bill until paid. The total amount of the fee collected shall not exceed the actual expenses incurred, or the estimated expenses which will be incurred, by the State Fire Marshal in carrying out this chapter.

SEC. 10. Section 51019.1 of the Government Code is amended to read:

51019.1. (a) There is hereby created the California Hazardous Liquid Pipeline Safety Fund, consisting of the Local Training Account, the Intrastate Pipeline Operations Account, and the Interstate Pipeline Operations Account.

(b) All fees collected pursuant to Section 51019 shall be deposited in the Intrastate Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out this chapter with respect to intrastate pipelines.

(c) All fees collected pursuant to Section 51019.05 shall be deposited in the Interstate Pipeline Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out the federal Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. Sec. 2001 et seq.) and federal pipeline safety regulations pursuant to this chapter with respect to interstate pipelines.

SEC. 11. Section 51020 of the Government Code is repealed.

CHAPTER 996

An act to amend Section 1610 of the Penal Code, and to add Item 4440-302-036 to Section 2.00 of the Budget Act of 1988, relating to mental health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 1610 of the Penal Code is amended to read:

1610. (a) Upon the filing of a request for revocation under Section 1608 or 1609 and pending the court's decision on revocation, the person subject to revocation may be confined in a facility designated by the community program director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status and that to delay confinement until the revocation hearing would pose an imminent risk of harm to the person or to another. The facility so designated

shall continue the patient's program of treatment, shall provide adequate security so as to ensure both the safety of the person and the safety of others in the facility, and shall, to the extent possible, minimize interference with the person's program of treatment. Upon the request of the community program director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a facility designated by the community program director for confinement under this section. Within one judicial day after the person is confined in a jail under this section, the community program director shall apply in writing to the court for authorization to confine the person pending the hearing under Section 1608 or Section 1609 or subdivision (c). The application shall be in the form of a declaration, and shall specify the behavior or other reason justifying the confinement of the person in a jail. Upon receipt of the application for confinement, the court shall consider and rule upon it, and if the court authorizes detention in a jail, the court shall actually serve copies of all orders and all documents filed by the community program director upon the prosecuting and defense counsel. The community program director shall notify the court in writing of the confinement of the person and of the factual basis for the opinion that the immediate confinement in a jail was necessary. The court shall supply a copy of these documents to the prosecutor and defense counsel.

(b) The facility designated by the community program director may be a state hospital, a local treatment facility, a county jail, or any other appropriate facility, so long as the facility can continue the person's program of treatment, provide adequate security, and minimize interference with the person's program of treatment. If the facility designated by the community program director is a county jail, the patient shall be separated from the general population of the jail. The designated facility need not be approved for 72-hour treatment and evaluation pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code); however, a county jail may not be designated unless the services specified above are provided, and accommodations are provided which ensure both the safety of the person and the safety of the general population of the jail. Within three judicial days of the patient's confinement in a jail, the community program director shall report to the court regarding what type of treatment the patient is receiving in the facility. If there is evidence that the treatment program is not being complied with, or accommodations have not been provided which ensure both the safety of the committed person and the safety of the general population of the jail, the court shall order the person transferred to an appropriate facility, including an appropriate state hospital. Nothing in this subdivision shall be construed as authorizing jail facilities to operate as health facilities, as defined in Section 1250 of the Health and Safety Code, without complying with applicable requirements of law.

(c) A person confined under this section shall have the right to judicial review of his or her confinement in a jail under this section in a manner similar to that which is prescribed in Article 5 (commencing with Section 5275) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code and to an explanation of rights in the manner prescribed in Section 5325 of the Welfare and Institutions Code.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353 of the Welfare and Institutions Code.

(d) A person whose confinement in a treatment facility under Section 1608 or 1609 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 1602 or 1603.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 3. Item 4440-302-036 is added to Section 2.00 of the Budget Act of 1988, to read:

4440-302-036—For capital outlay, Department of Mental Health, payable from the Special Account for Capital Outlay 9,646,000

Schedule:

(1) 55.35.205—Metropolitan State Hospital, CTW Building: Fire, Life Safety and Environmental Improvements—construction.

Provision:

1. The scope of improvements at the CTW Building at Metropolitan State Hospital funded in category (1) of this item shall be as described for that project under Item 4440-301-036 in the Supplemental Report of the 1985 Budget Act, with the addition of asbestos abatement necessary for the safety of building occupants. It is the legislative intent that the Department of Mental Health implement the improvements according to the following schedule: advertise for construction bids in September 1988, start construction in December 1988, and complete construction in January 1990.

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

In order to comply with code requirements and to assure safe accommodations for 376 intermediate care, mentally ill patients at Metropolitan State Hospital, it is necessary that this act go into immediate effect.

CHAPTER 997

An act to add Section 2023 to, and to add and repeal Section 2435.1 of, the Business and Professions Code, relating to the healing arts, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 2023 is added to the Business and Professions Code, to read:

2023. On or before June 30, 1989, the board shall report to the Legislature actions which it has taken to improve the opportunity for the public to file complaints against any individual health provider licensed by the board concerning professional incompetence or quality of individual professional care, together with any recommendations it may have requiring additional statutory authority or funding it may need to be responsive to resolving such complaints.

SEC. 2. Section 2435.1 is added to the Business and Professions Code, to read:

2435.1. The board shall remit a refund to any physician and surgeon who, pursuant to subdivision (c) of Section 2435, as amended by Chapter 1176 of the Statutes of 1985, and prior to January 1, 1987, paid a full initial license fee and then a full biennial renewal fee. The amount of the refund shall be an amount equal to 50 percent of the initial license fee in effect January 1, 1987.

This section shall apply only to those physicians and surgeons who were enrolled in an approved residency program and did not receive the benefit of a reduction either in their initial license fee or their first biennial renewal fee.

Moneys shall be continuously appropriated from the Board of Medical Quality Assurance Contingency Fund to pay for the refunds authorized by this section.

The section shall be operative until January 1, 1990, and on that date is repealed.

CHAPTER 998

An act to amend Sections 12027 and 12031 of the Penal Code, relating to weapons.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) (1) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency the officer retired from.

Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a firearm. The endorsement shall also include the date when the endorsement is to be renewed.

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke for good cause the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded firearms as merchandise by a person engaged in the business of manufacturing, repairing, or dealing in firearms who is licensed to engage in that business or the authorized representative or authorized agent of that

person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a

fee necessary to cover any reasonable expenses incurred by the county.

SEC. 1.5. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) (1) Any peace officer, listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency the officer retired from.

Any officer retired after January 1, 1981, shall have an endorsement on the identification stating that the issuing agency approves the officer's carrying of a concealed firearm. The endorsement shall also include the date when the endorsement is to be renewed.

No endorsement or renewal endorsement issued pursuant to paragraph (2) shall be effective unless it has a "CCW Approved" stamp on it, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a concealed firearm pursuant to this section, shall not be required to have a "CCW Approved" stamp until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2). For purposes of this section and Section 12031, "CCW" means "carry concealed weapons."

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for the renewal of his or her privilege to carry a concealed firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a concealed firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of that peace officer, or at any time subsequent thereto, deny or revoke, for good cause the retired officer's privilege to carry a concealed firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry concealed firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a concealed firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(b) The possession or transportation of unloaded firearms as

merchandise by a person engaged in the business of manufacturing, repairing, or dealing in firearms who is licensed to engage in that business or the authorized representative or authorized agent of that person while engaged in the lawful course of the business.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Transportation of unloaded firearms by a person operating a licensed common carrier or an authorized agent or employee thereof when transported in conformance with applicable federal law.

(i) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a concealed firearm.

Upon that approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a concealed firearm in accordance with this subdivision. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a concealed firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

SEC. 2. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in the county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

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

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired.

Any officer retired after January 1, 1981, shall have an endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm. The endorsement shall also include the date when the endorsement is to be renewed.

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to

carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(6) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or

agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and

scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residence or their place of employment. Security guards and alarm agents en route to or from their residence or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of

any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 2.5. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in the county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

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

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, honorably retired peace officers listed in subdivision (c) of Section 830.5, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting that officer. Any peace officer described in this paragraph who has been honorably retired shall be issued an identification certificate by the agency from which the officer has retired.

Any officer retired after January 1, 1981, shall have an

endorsement on the identification certificate stating that the issuing agency approves the officer's carrying of a loaded firearm. The endorsement shall also include the date when the endorsement is to be renewed.

No endorsement issued pursuant to paragraph (2) shall be effective unless it has a "CCW Approved" stamp on it, except that any peace officer listed in subdivision (f) of Section 830.2 or in subdivision (c) of Section 830.5, who is retired between January 2, 1981, and on or before December 31, 1988, and who is authorized to carry a loaded firearm pursuant to this section, shall not be required to have a "CCW Approved" stamp until the time of the issuance, on or after January 1, 1989, of a renewal endorsement pursuant to paragraph (2).

(2) A retired peace officer who retired after January 1, 1981, shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm every five years. An honorably retired peace officer, described in paragraph (1), retired prior to January 1, 1981, shall not be required to obtain an endorsement from the issuing agency to carry a firearm. The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a firearm.

(3) An honorably retired peace officer listed in subdivision (c) of Section 830.5 authorized to carry loaded firearms by this subdivision shall meet the training requirements of Section 832 and shall qualify with the firearm at least annually. The individual retired peace officer shall be responsible for maintaining his or her eligibility to carry a loaded firearm. The Department of Justice shall provide subsequent arrest notification pursuant to Section 11105.2 regarding honorably retired peace officers listed in subdivision (c) of Section 830.5 to the agency from which the officer has retired.

(4) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(5) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(6) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(7) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a firearms qualification card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(8) Upon approval of the sheriff of the county in which they reside, honorably retired federal officers or agents of federal law enforcement agencies including, but not limited to, the Federal Bureau of Investigation, the Secret Service, the United States Customs Service, the Federal Bureau of Alcohol, Tobacco, and

Firearms, the Federal Bureau of Narcotics, the Drug Enforcement Administration, the United States Border Patrol, and officers or agents of the Internal Revenue Service who were authorized to carry weapons while on duty, who were assigned to duty within the state for a period of not less than one year, or who retired from active service in the state.

Retired federal officers or agents shall provide the sheriff with certification from the agency from which they retired certifying their service in the state, the nature of their retirement, and indicating the agency's concurrence that the retired federal officer or agent should be accorded the privilege of carrying a loaded firearm.

Upon approval, the sheriff shall issue a permit to the retired federal officer or agent indicating that he or she may carry a loaded firearm in accordance with this paragraph. The permit shall be valid for a period not exceeding five years, shall be carried by the retiree while carrying a loaded firearm, and may be revoked for good cause.

The sheriff of the county in which the retired federal officer or agent resides may require recertification prior to a permit renewal, and may suspend the privilege for cause. The sheriff may charge a fee necessary to cover any reasonable expenses incurred by the county.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. The certificate shall not be required of any person who is a peace officer,

who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated in that capacity by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residence or their place of employment. Security guards and alarm agents en route to or from their residence or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of

a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 12027 of the Penal Code proposed by both this bill and AB 3446. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 12027 of the Penal Code, and (3) this bill is enacted after AB 3446, in which case Section 1 of this bill shall not become operative.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 12031 of the Penal Code proposed by both this bill and AB 3446. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 12031 of the Penal Code, and (3) this bill is enacted after AB 3446, in which case Section 2 of this bill shall not become operative.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 999

An act to add Section 14000.05 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. The Legislature finds and declares all of the following:

Rural hospitals are an integral link in the state's health care system serving the needs of rural residents and the tourist population. While in most cases, they are the sole community provider of health care, rural hospitals provide a statewide network that assures the availability and accessibility of health care services to all Californians.

California is facing an impending crisis in its rural health care delivery system. Based on the current financial performance of rural hospitals throughout the state, and in light of long-term utilization and reimbursement trends, many of these hospitals will close in the near future. Closure of strategically located rural hospitals will result in a loss to the integrity of the Medi-Cal program, gaps in the emergency medical response system, and loss of primary care providers from rural communities.

SEC. 2. Section 14000.05 is added to the Welfare and Institutions Code, to read:

14000.05. The State Department of Health Services shall consider the special needs and requirements of rural hospitals in California that are financially distressed and in danger of closure. The department may provide technical assistance and other appropriate assistance and relief on Medi-Cal program policies, reimbursement issues, and Medi-Cal operational and procedural problems to financially distressed rural hospitals, when appropriate, in order to preserve the availability of health care services in rural California.

CHAPTER 1000

An act to amend Sections 1684, 1690, 1695.5, and 1697 of, and to add Sections 1691 and 1697.2 to, the Labor Code, relating to farm labor contractors, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 1684 of the Labor Code is amended to read:

1684. The Labor Commissioner shall not issue to any person a license to act as a farm labor contractor, nor shall the Labor Commissioner renew that license, until all of the following conditions are satisfied:

(a) The person has executed a written application therefor in a form prescribed by the Labor Commissioner, subscribed and sworn to by the person, and containing all of the following:

(1) A statement by the person of all facts required by the Labor Commissioner concerning the applicant's character, competency, responsibility, and the manner and method by which the person proposes to conduct operations as a farm labor contractor if the license is issued.

(2) The names and addresses of all persons, except bona fide employees on stated salaries, financially interested, either as partners, associates, or profit sharers, in the proposed operation as a farm labor contractor, together with the amount of their respective interests.

(3) A declaration consenting to the designation by a court of the Labor Commissioner as an agent available to accept service of summons in any action against the licensee if the licensee has left the jurisdiction in which the action is commenced or otherwise has become unavailable to accept service.

(b) The Labor Commissioner, after investigation, is satisfied as to the character, competency, and responsibility of the person.

(c) The person has deposited with the Labor Commissioner a surety bond in the amount of ten thousand dollars ($10,000). Where the contractor has been the subject of a final judgment in a year in an amount equal to that of the bond required, he or she shall be required to deposit an additional bond within 60 days. The bond shall be payable to the people of the State of California and shall be conditioned that the farm labor contractor will comply with all the terms and provisions of this chapter and will pay all damages occasioned to any person by failure to do so, or by any violation of this chapter, or false statements or misrepresentations made in the procurement of the license. The bond shall also be payable for interest on wages and for any damages arising from violation of orders of the Industrial Welfare Commission, but shall not be payable for penalties on nonpayment or late payment of wages pursuant to Section 203. If a deposit is given instead of a bond, the Labor Commissioner may charge reasonable legal fees against the deposit for handling claims, other than wage claims, filed against the deposit.

(d) The person has paid to the Labor Commissioner a license fee of two hundred fifty dollars ($250) plus a filing fee of ten dollars ($10). However, where a timely application for renewal is filed, the ten-dollar ($10) filing fee is not required The Labor Commissioner shall deposit twenty-five dollars ($25) of each licensee's annual license fee into a separate account. Funds from this account shall be disbursed by the Labor Commissioner only to persons determined by the Labor Commissioner to have been damaged by any licensee

when the damage exceeds the limits of the licensee's bond, or to persons determined by the Labor Commissioner to have been damaged by an unlicensed farm labor contractor. In making these determinations, the Labor Commissioner shall disburse funds from the account to satisfy claims against farm labor contractors or unlicensed farm labor contractors, which shall also include interest on wages and any damages arising from the violation of orders of the Industrial Welfare Commission, but shall not include penalties on nonpayment or late payment of wages pursuant to Section 203. Any disbursal of funds from the account to satisfy a claim against an unlicensed farm labor contractor shall not exceed ten thousand dollars ($10,000). Any disbursed funds subsequently recovered by the Labor Commissioner pursuant to Section 1693, or otherwise, shall be returned to the separate account.

(e) The person in an oral or written examination, or both, demonstrates a degree of knowledge of the laws and administrative regulations concerning farm labor contractors as the Labor Commissioner deems necessary for the safety and protection of farmers, farmworkers, and the public. This examination shall include a demonstration of knowledge of safe work practices related to pesticide use, including all of the following subjects:

(1) Field reentry regulations.

(2) Worker pesticide safety training.

(3) Employer responsibility for safe working conditions.

(4) Symptoms and appropriate treatment of pesticide poisoning.

The Labor Commissioner shall consult with the Director of Food and Agriculture in preparing this examination and may charge a fee of not more than thirty-five dollars ($35) to cover the cost of administration of the examination.

(f) The Labor Commissioner may renew a license without requiring the applicant for renewal to take the examination specified in subdivision (e) if the Labor Commissioner finds that the applicant meets all of the following criteria:

(1) Has satisfactorily completed the examination during the immediately preceding four years.

(2) Has not during the preceding year been found to be in violation of any pesticide worker safety requirement, including, but not limited to, Division 7 (commencing with Section 12501) of the Food and Agricultural Code.

(3) Has complied with all other requirements of this section.

(g) The person has registered as a farm labor contractor pursuant to the federal Migrant and Seasonal Agricultural Worker Protection Act, when registration is required pursuant to federal law

SEC. 2. Section 1690 of the Labor Code is amended to read:

1690. The Labor Commissioner may revoke, suspend, or refuse to renew any license when it is shown that any of the following have occurred:

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

(b) The licensee has made any misrepresentations or false statements in his or her application for a license.

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

(d) The licensee, or any agent of the licensee, has violated, or has willfully aided or abetted any person in the violation of, or failed to comply with, any law of the State of California regulating the employment of employees in agriculture, the payment of wages to farm employees, or the conditions, terms, or places of employment affecting the health and safety of farm employees, which is applicable to the business, activities, or operations of the licensee in his or her capacity as a farm labor contractor.

(e) The licensee, or any agent of the licensee, has failed to comply with any provisions of the Vehicle Code pertaining to a farm labor vehicle, as described in Sections 322 and 323 of the Vehicle Code, under the licensee's control, or has allowed a farm labor vehicle under his or her control to be operated by a driver without a valid driver's license and certificate required pursuant to Section 12519 of the Vehicle Code.

(f) The licensee has been found, by a court or the Secretary of Labor, to have violated any provision of the federal Migrant and Seasonal Agricultural Worker Protection Act (Chapter 20 (commencing with Section 1801), Title 29, United States Code), provided that the licensee is required to register as a farm labor contractor pursuant to federal law.

SEC. 3. Section 1691 is added to the Labor Code, to read:

1691. If any licensee has been subject to two or more final judgments by a court for failure to pay wages due respecting his or her farm employees within a five-year period, the Labor Commissioner shall suspend for one year the license of the licensee.

SEC. 4. Section 1695.5 of the Labor Code is amended to read:

1695.5. (a) Every farm labor contractor, upon request of any agricultural grower with whom he or she has a contract to supply farmworkers, shall immediately furnish the grower with a payroll list of all the contractor's employees working for the grower.

(b) The payroll list shall be on a uniform form approved by the Labor Commissioner, which shall include, but not be limited to, the employee's name, social security number, permanent and temporary address, telephone number, and length of employment with the grower.

(c) The requirements of this section are in addition to any requirements of federal law, including the federal Migrant and Seasonal Agricultural Worker Protection Act (Chapter 20 (commencing with Section 1801), Title 29, United States Code).

SEC. 5. Section 1697 of the Labor Code is amended to read:

1697. (a) Any person who violates this chapter, or who causes or induces another to violate this chapter, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or imprisonment in the county jail for not more than six months, or

both.

(b) Any employee aggrieved by any violation of this chapter, other than acts and conduct also proscribed by Sections 1153, 1154, and 1155, may do all of the following:

(1) Bring a civil action for injunctive relief or damages, or both, against a farm labor contractor or unlicensed farm labor contractor who violates this chapter and, upon prevailing, shall recover reasonable attorney's fees.

(2) Enforce the liability on the farm labor contractor's bond.

(c) Any farm labor contractor who engages in farm labor contracting activities after his or her license has been suspended or revoked is guilty of an offense punishable by a fine of not less than one thousand dollars ($1,000) and not more than five thousand dollars ($5,000), or by imprisonment for not less than six months and not more than one year, or both.

SEC. 6. Section 1697.2 is added to the Labor Code, to read:

1697.2. Actions brought under this chapter shall be set for trial at the earliest possible date, and shall take precedence over all other cases, except older matters of the same character and matters to which special precedence may be given by law.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1001

An act to amend Section 225m of the Civil Code, relating to adoption.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 225m of the Civil Code is amended to read:

225m. (a) The Legislature hereby finds and declares that lawyering may be deficient when conflict of interest deprives the client of undivided loyalty and effort. The Legislature further finds and declares that the relation between attorney and client is a fiduciary relation of the very highest character, and binds the attorney to most conscientious fidelity.

The Legislature finds that Rule 2-111 (A) (2) of the State Bar Rules of Professional Conduct provides that an attorney shall not withdraw from employment until he or she has taken reasonable steps to avoid foreseeable prejudice to the rights of the client, including giving due

notice to the client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

The Legislature declares that in an independent adoption proceeding, whether or not written consent is obtained, multiple representation by an attorney should be avoided whenever a birth parent displays the slightest reason for the attorney to believe any controversy might arise. The Legislature finds and declares that it is the duty of the attorney when a conflict of interest occurs to withdraw promptly from any case, advise the parties to retain independent counsel, refrain from taking positions in opposition to any of these former clients, and thereafter maintain an impartial, fair and open attitude toward the new attorneys.

(b) Notwithstanding any other provision of law, it is unethical for an attorney to undertake the representation of both the prospective adopting parents and the birth parents of a child in any negotiations or proceedings in connection with an adoption unless a written consent is obtained from both parties. The written consent shall include all of the following:

(1) An advisement to the birth parents, in the form specified in this section, of their right to have an independent attorney advise and represent them in the adoption proceedings and that the adoptive parents may be required to pay the reasonable attorney's fees up to a maximum of five hundred dollars ($500) (unless a higher fee is agreed to by the parties) for that representation.

(2) An advisement to the birth parents that they may waive their right to an independent attorney and may be represented by the attorney representing the adoptive parents.

(3) A waiver by the birth parents of representation by an independent attorney.

(4) An agreement that the attorney representing the adoptive parents shall represent the birth parents.

(c) Upon the petition or motion of any party, or upon motion of the court, the court may appoint an attorney to represent the birth parent or parents of a child in negotiations or proceedings in connection with the child's adoption.

(d) In those cases in which neither the State Department of Social Services nor an agency licensed to place children for adoption is a party to, or joins in, the petition for adoption, the birth parent or parents of the child may have counsel, other than the counsel representing the interests of the prospective adoptive parents, to advise them fully of the adoptive procedures and of their legal rights. The birth parent or parents also may retain counsel to represent them in negotiations or proceedings in connection with the child's adoption. The court may award attorneys fees and costs for just cause and based upon the ability of the parties to pay those fees and costs.

(e) In the initial communication between the attorney retained by or representing the prospective adoptive parents and the birth parents, or as soon thereafter as reasonable, but prior to any written

consent for dual representation, the attorney shall advise the birth parents of their rights regarding independent counsel and that it is possible to waive independent counsel.

(f) Any written consent to dual representation shall be filed with the court prior to the filing of the natural parent's consent to adoption.

CHAPTER 1002

An act to add and repeal Chapter 5.5 (commencing with Section 35060) of Division 25 of the Public Resources Code, relating to fisheries, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Chapter 5.5 (commencing with Section 35060) is added to Division 25 of the Public Resources Code, to read:

CHAPTER 5.5. LOCAL MARINE FISHERIES IMPACT PROGRAM

35060. The Legislature hereby finds that California's commercial fishing industry is a vital component of the state's economy, and that this industry has been impacted by offshore oil and gas activities. The Legislature further finds that these past impacts have not been sufficiently addressed.

The Legislature hereby establishes a Local Marine Fisheries Impact Program to address these impacts.

The Legislature further finds that this program shall not be considered to be mitigation for these impacts, and that by the enactment of this chapter, the state is not assuming responsibility for mitigating impacts to the fishing industry arising from offshore oil and gas activities. The Legislature further finds and declares that this program is a proper use of funds and that the program serves a necessary public purpose.

35061. "Secretary" means the Secretary of Environmental Affairs.

35062. (a) The secretary may grant funds appropriated for fishing vessels, safety, survey, and survival equipment to any commercial fisherman, licensed under Section 7850 of the Fish and Game Code, who operates or owns a fishing vessel operated in areas off the coast of this state in which oil and gas exploration or development facilities or equipment were in use prior to August 1, 1985. The funds shall be used to extend the vessel's fishing range to reasonable limits by improving vessel and personnel safety and

survival equipment, navigation and communications equipment, and operational practices and equipment, in order to reach areas beyond those impacted by the oil and gas activities. Grants under this subdivision shall be made only for vessels which have had safety surveys completed by certified vessel surveyors or United States Coast Guard inspectors, and shall not exceed five thousand dollars ($5,000) for each vessel for reimbursement for safety and survival surveys and for any recommended modifications and additions resulting from the surveys

(b) The secretary may also grant funds to individuals and state agencies, contract for services or research, or enter into interagency agreements to address impacts on California's commercial fishing industry from offshore oil and gas activities. Funds expended for this purpose may implement programs to address area, gear, and technology development; vessel and gear staging and repair space; fishing vessel safety, survey, and survival equipment; sea floor oil and gas debris cleanup; San Pedro purse seine fleet assistance for marketing, fuel conservation, and resource assessment; fisheries marketing assistance; and establishment of a fisheries development corporation.

(c) Procedures for the administration of grants under this chapter shall be adopted by the secretary only after providing adequate opportunity for public review and comment. However, those procedures are not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

35063. This chapter shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2 The Local Marine Fisheries Impact Program established by this act is the program for which funds were appropriated by Item 3400-001-001, as described in Provision 3 of that item, of Section 2.00 of the Budget Act of 1988 (Chapter 313, Statutes of 1988).

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

Past and cumulative impacts on the commercial fishing industry from offshore oil and gas activities have not been sufficiently addressed. These impacts along with other natural and economic causes have affected the continued viability of California's commercial fishing industry. The program established by Section 1 of this act is required immediately in order for the state to initiate and complete in a timely fashion a comprehensive program to address these impacts. It is necessary, therefore, that this act take effect immediately.

CHAPTER 1003

An act to amend, repeal, and add Section 7118.5 of, and to add Sections 7030.6, 7058.6, and 7058.8 to, the Business and Professions Code, relating to asbestos.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 7030.6 is added to the Business and Professions Code, to read:

7030.6. (a) No person shall advertise, as that term is defined in Section 7026.7, to promote his or her services for the removal of asbestos unless he or she is certified to engage in asbestos-related work pursuant to Section 7058.5, and registered for that purpose pursuant to Section 6501.5 of the Labor Code. Each advertisement shall include that person's certification and registration numbers and shall use the same name under which that person is certified and registered.

(b) The registrar shall issue a notice to comply with this section to any person who is certified and registered, as described in subdivision (a), and who fails to include in any advertisement his or her certification and registration numbers.

(c) The registrar shall issue a citation pursuant to Section 7099 to any person who advertises to promote his or her services for the removal of asbestos but does not possess valid certification and registration numbers as required by subdivision (a), or who fails to use in that advertisement the same name under which he or she is certified and registered.

(d) If the person to whom a citation is issued under subdivision (c) notifies the registrar that he or she intends to contest the citation, the registrar shall afford an opportunity for a hearing, as specified in Section 7099.5, within 90 days after receiving the notification.

(e) The citation issued under subdivision (c), when final, shall contain an order of correction requiring that person to cease the unlawful advertising identified, and shall require, as a condition of that person's continued status as a licensee under this chapter, that the person cease to use the telephone number identified in the unlawful advertisement or advertisements, and that subsequent calls to that number not be referred by the telephone company to any new telephone number obtained by that person.

This section shall become operative on July 1, 1989.

SEC. 1.5. Section 7058.6 is added to the Business and Professions Code, to read:

7058.6. The board shall not issue an asbestos certification, as required by Section 7058.5, unless the contractor is registered with the Division of Occupational Safety and Health of the Department

of Industrial Relations pursuant to Section 6501.5 of the Labor Code. The board may issue an asbestos certification to a contractor who is not registered, provided the contractor in a written statement acknowledges that he or she does not perform asbestos-related work and requires certification solely for the purposes of bidding on a project involving asbestos-related work. The board shall notify both the division and the contractor, at the same time, in writing, of the contractor's passage of the certification examination, for the purpose of allowing the contractor to satisfy the requirement of paragraph (1) of subdivision (a) of Section 6501.5 of the Labor Code. The board may require a reexamination if the contractor fails to register within 90 days following issuance of the notification. Applicable test fees shall be paid for any reexamination required under this section.

A contractor who is certified to engage in asbestos-related work on the effective date of this section shall register with the Division of Occupational Safety and Health of the Department of Industrial Relations within 90 days after the board has notified the contractor that registration is required of all asbestos certified contractors. The board shall notify all contractors who are so certified within 60 days of the effective date of this section that registration is required.

The board shall obtain and periodically update the list of contractors certified to engage in asbestos-related work who are registered pursuant to Section 6501.5 of the Labor Code.

Any contractor who is certified to engage in asbestos-related work shall present proof of current registration with the Division of Occupational Safety and Health of the Department of Industrial Relations pursuant to Section 6501.5 of the Labor Code upon application for renewal of his or her license, if the contractor engages in asbestos-related work, as defined in Section 6501.8 of the Labor Code.

This section shall become operative on July 1, 1989.

SEC. 2. Section 7058.8 is added to the Business and Professions Code, to read:

7058.8. The board shall make available to the public upon request information about contracting for the removal or encapsulation of asbestos-containing materials in a building including all of the following:

(a) Steps to take when contracting with a company to remove asbestos.

(b) Existing laws and regulations pertaining to asbestos-related work in California.

(c) Basic health information as contained in the United States Environmental Protection Agency publication, "Guidance for Controlling Asbestos-Containing Materials in Buildings."

(d) A current list of contractors who are certified pursuant to Section 7058.5 to engage in asbestos-related work and who are registered pursuant to Section 6501.5 of the Labor Code.

This section shall become operative on July 1, 1989.

SEC. 3. Section 7118.5 of the Business and Professions Code is

amended to read:

7118.5. Any person who owns a commercial or industrial building or structure, any employer who engages in or contracts for asbestos-related work, any contractor, public agency, or any employee acting for any of the foregoing, who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not, certified pursuant to Section 7058.5 to engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, is subject to the following penalties:

(a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars ($1,000) or more than three thousand dollars ($3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars ($3,000) or more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

This section shall be operative until July 1, 1989, and on that date is repealed.

SEC. 4 Section 7118.5 is added to the Business and Professions Code, to read:

7118.5. Any person who owns a commercial or industrial building or structure, any employer who engages in or contracts for asbestos-related work, any contractor, public agency, or any employee acting for any of the foregoing, who, either knowingly or negligently, or by reason of a failure to inquire, enters into a contract with another person who is required to be, and is not, certified pursuant to Section 7058.5 to engage in asbestos-related work, as defined in Section 6501.8 of the Labor Code, is subject to the following penalties:

(a) Conviction of a first offense is an infraction punishable by a fine of not less than one thousand dollars ($1,000) or more than three thousand dollars ($3,000), and by possible revocation or suspension of any contractor's license.

(b) Conviction of a subsequent offense is a misdemeanor requiring revocation or suspension of any contractor's license, and a fine of not less than three thousand dollars ($3,000) or more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both the fine and imprisonment.

This section shall become operative on July 1, 1989.

SEC. 4. It is the intention of the Legislature that the cost of providing the information under Section 7058.8 of the Business and Professions Code shall be borne by the Contractors' State License Board out of moneys appropriated for the support of the board from the Contractors' License Fund.

CHAPTER 1004

An act to amend Sections 53630, 53635, 53637, 53638, 53648, 53661, 53676, and 53679 of the Government Code, relating to deposit of public moneys.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

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

SECTION 1. Section 53630 of the Government Code is amended to read:

53630. As used in this article:

(a) "Local agency" means county, city, city and county, including a chartered city or county, a community college district, or other public agency or corporation in this state.

(b) "Treasurer" means treasurer of the local agency.

(c) "Depository" means a state or national bank, savings association or federal association, a state or federal credit union, or a federally insured industrial loan company, in this state in which the moneys of a local agency are deposited.

(d) "Agent of depository" means a trust company or trust department of a state or national bank located in this state, including the trust department of a depository where authorized, and the Federal Home Loan Bank of San Francisco, which is authorized to act as an agent of depository for the purposes of this article pursuant to Section 53657.

(e) "Security" means any of the eligible securities or obligations listed in Section 53651.

(f) "Pooled securities" means eligible securities held by an agent of depository for a depository and securing deposits of one or more local agencies.

(g) "Administrator" means the Administrator of Local Agency Security of the State of California.

(h) "Savings association or federal association" means a savings association, savings and loan association, or savings bank as defined by Section 5102 of the Financial Code.

(i) "Federally insured industrial loan company" means an industrial loan company licensed under Division 7 (commencing with Section 18000) of the Financial Code, the investment certificates of which are insured by the Federal Deposit Insurance Corporation.

(j) For purposes of being a depository of moneys belonging to or being in the custody of a local agency, the phrases "state or national bank located in this state," "state or national bank," "state or national bank in this state," and "state or national banks in the state" include a foreign bank licensed under Article 3 (commencing with Section 1750) of Chapter 13.5 of Division 1 of the Financial Code to maintain

a branch office in this state or authorized under federal law to maintain a federal branch in this state.

SEC. 2. Section 53635 of the Government Code, as amended by Section 5.5 of Chapter 887 of the Statutes of 1987, is amended to read:

53635. As far as possible, all money belonging to, or in the custody of, a local agency, including money paid to the treasurer or other official to pay the principal, interest, or penalties of bonds, shall be deposited for safekeeping in state or national banks, savings associations or federal associations, credit unions, or federally insured industrial loan companies in this state selected by the treasurer or other official having the legal custody of the money; or, unless otherwise directed by the legislative body pursuant to Section 53601, may be invested in the following:

(a) Bonds issued by the local agency, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency or by a department, board, agency, or authority of the local agency.

(b) United States Treasury notes, bonds, bills, or certificates of indebtedness, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Registered state warrants or treasury notes or bonds of this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the state or by a department, board, agency, or authority of the state.

(d) Bonds, notes, warrants, or other evidences of indebtedness of any local agency within this state, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by the local agency, or by a department, board, agency, or authority of the local agency.

(e) Obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank, the Tennessee Valley Authority, or in obligations, participations, or other instruments of, or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association; or in guaranteed portions of Small Business Administration notes; or in obligations, participations, or other instruments of, or issued by, federal agency or a United States government-sponsored enterprise.

(f) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System. Purchases of bankers acceptances may not exceed 270 days maturity or 40 percent of the agency's surplus funds which may be invested pursuant to this section. However, no more than 30 percent of the agency's surplus funds may be invested in the bankers acceptances of any one commercial bank pursuant to this section.

This subdivision does not preclude a municipal utility district from investing any surplus money in its treasury in any manner authorized by the Municipal Utility District Act, Division 6 (commencing with

Section 11501) of the Public Utilities Code.

(g) Commercial paper of "prime" quality of the highest ranking or of the highest letter and numerical rating as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations that are organized and operating within the United States and having total assets in excess of five hundred million dollars ($500,000,000) and having an "A" or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's Investors Service, Inc., or Standard and Poor's Corporation. Purchases of eligible commercial paper may not exceed 180 days maturity nor represent more than 10 percent of the outstanding paper of an issuing corporation. Purchases of commercial paper may not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section. An additional 15 percent, or a total of 30 percent of the agency's money or money in its custody, may be invested pursuant to this subdivision. The additional 15 percent may be so invested only if the dollar-weighted average maturity of the entire amount does not exceed 31 days. "Dollar-weighted average maturity" means the sum of the amount of each outstanding commercial paper investment multiplied by the number of days to maturity, divided by the total amount of outstanding commercial paper.

(h) Negotiable certificates of deposit issued by a nationally or state-chartered bank or a savings association or federal association or a state or federal credit union or by a state-licensed branch of a foreign bank. Purchases of negotiable certificates of deposit may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section. For purposes of this section, negotiable certificates of deposit do not come within Article 2 (commencing with Section 53630) of Chapter 4 of Part 1 of Division 2 of Title 5, except that the amount so invested shall be subject to the limitations of Section 53638. For purposes of this section, the legislative body of a local agency and the treasurer or other official of the local agency having legal custody of the money are prohibited from depositing or investing local agency funds, or funds in the custody of the local agency, in negotiable certificates of deposit issued by a state or federal credit union if a member of the legislative body of the local agency, or an employee of the administrative officer, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee of the state or federal credit union issuing the negotiable certficates of deposit.

(i) Investments in repurchase agreements or reverse repurchase agreements of any securities authorized by this section, so long as the proceeds of the reverse repurchase agreement are invested solely to supplement the income normally received from these securities. Investment in a reverse repurchase agreement shall be made only

upon prior approval of the legislative body of the local agency. For purposes of this section, the term "repurchase agreement" means a purchase of securities by the local agency pursuant to an agreement by which the seller will repurchase the securities on or before a specified date and for a specified amount and will deliver the underlying securities to the local agency by book entry, physical delivery, or by third-party custodial agreement. The transfer of underlying securities to the counterparty bank's customer book entry account may be used for book entry delivery. The term "counterparty" for the purposes of this subdivision, means the other party to the transaction. A counterparty bank's trust department or safekeeping department may be used for physical delivery of the underlying security. The term of repurchase agreements shall be for one year or less. The term "securities," for purpose of repurchase under this subdivision, shall mean securities of the same issuer, description, issue date, and maturity.

The term "reverse repurchase agreement" means a sale of securities by the local agency pursuant to an agreement by which the local agency will repurchase such securities on or before a specified date and for a specified amount.

(j) Medium-term notes of a maximum of five years' maturity issued by corporations organized and operating within the United States or by depository institutions licensed by the United States or any state and operating within the United States. Notes eligible for investment under this subdivision shall be rated in a rating category of "A" or its equivalent or better by a nationally recognized rating service. Purchases of medium-term notes may not exceed 30 percent of the agency's surplus money which may be invested pursuant to this section.

(k) Shares of beneficial interest issued by diversified management companies, as defined in Section 23701m of the Revenue and Taxation Code, investing in the securities and obligations as authorized by subdivisions (a) to (k), inclusive, of this section and which comply with the investment restrictions of this article and Article 1 (commencing with Section 53600). To be eligible for investment pursuant to this subdivision, these companies shall either: (1) attain the highest ranking or the highest letter and numerical rating provided by not less than two of the three largest nationally recognized rating services, or (2) have an investment adviser registered with the Securities and Exchange Commission with not less than five years' experience investing in the securities and obligations as authorized by subdivisions (a) to (m), inclusive, of this section and with assets under management in excess of five hundred million dollars ($500,000,000). The purchase price of shares of beneficial interest purchased pursuant to this subdivision shall not include any commission that these companies may charge and shall not exceed 15 percent of the agency's surplus money which may be invested pursuant to this section.

(*l*) Notes, bonds, or other obligations which are at all times

secured by a valid first priority security interest in securities of the types listed by Section 53651 as eligible securities for the purpose of securing local agency deposits having a market value at least equal to that required by Section 53652 for the purpose of securing local agency deposits. The securities serving as collateral shall be placed by delivery or book entry into the custody of a trust company or the trust department of a bank which is not affiliated with the issuer of the secured obligation, and the security interest shall be perfected in accordance with the requirements of the Uniform Commercial Code or federal regulations applicable to the types of securities in which the security interest is granted.

SEC. 2.5. Section 53637 of the Government Code is amended to read:

53637. The money shall be deposited in any bank, savings association or federal association, state or federal credit union, or federally insured industrial loan company with the objective of realizing maximum return, consistent with prudent financial management, except that money shall not be deposited in any state or federal credit union if a member of the legislative body of a local agency, or an employee of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

SEC. 3. Section 53638 of the Government Code is amended to read:

53638. (a) The deposit shall not exceed the shareholder's equity of any depository bank. For the purposes of this subdivision, shareholder's equity shall be determined in accordance with Section 118 of the Financial Code, but shall be deemed to include capital notes and debentures.

(b) The deposit shall not exceed the total of the net worth of any depository savings association or federal association, except that deposits not exceeding a total of five hundred thousand dollars ($500,000) may be made to a savings association or federal association without regard to the net worth of that depository, if such deposits are insured or secured as required by law.

(c) The deposit to the share accounts of any regularly chartered credit union shall not exceed the total of the unimpaired capital and surplus of the credit union, as defined by rule of the Commissioner of Corporations, except that the deposit to any credit union share account in an amount not exceeding five hundred thousand dollars ($500,000) may be made if the share accounts of that credit union are insured or guaranteed pursuant to Section 14858 of the Financial Code or are secured as required by law.

(d) The deposit in investment certificates of a federally insured industrial loan company shall not exceed the total of the unimpaired capital and surplus of the insured industrial loan company.

SEC. 4. Section 53648 of the Government Code is amended to read:

53648. Notwithstanding this article, the treasurer may deposit moneys in, and enter into contracts with, a state or national bank, savings association or federal association, federal or state credit union, or federally insured industrial loan company, pursuant to a federal law or a rule of a federal department or agency adopted pursuant to the law if the law or rule conflicts with this article in regulating the payment of interest on deposits of public moneys by any of the following:

(a) Banks which are Federal Reserve System members or whose deposits are insured by the Federal Deposit Insurance Corporation.

(b) Savings associations or federal associations which are federal home loan bank members or whose deposits are insured by the Federal Savings and Loan Insurance Corporation.

(c) State or federal credit unions whose accounts are insured by the National Credit Union Share Insurance Fund or guaranteed by the California Credit Union Share Guaranty Corporation or insured or guaranteed pursuant to Section 14858 of the Financial Code, unless a member of the legislative body of a local agency, or an employee of the administrative office, manager's office, budget office, auditor-controller's office, or treasurer's office of the local agency, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the state or federal credit union.

(d) A federally insured industrial loan company.

SEC. 5. Section 53661 of the Government Code is amended to read:

53661. (a) The Superintendent of Banks shall act as Administrator of Local Agency Security and shall be responsible for the administration of Sections 53638, 53651, 53651.2, 53651.4, 53651.6, 53652, 53654, 53655, 53656, 53657, 53658, 53659, 53660, 53661, 53663, 53664, 53665, 53666, and 53667.

(b) The administrator shall have the powers necessary or convenient to administer and enforce the sections specified in subdivision (a).

(c) (1) The administrator shall issue regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties, and responsibilities assigned by this article. The regulations may include regulations prescribing standards for the valuation, marketability, and liquidity of the eligible securities of the class described in subdivision (m) of Section 53651, regulations prescribing procedures and documentation for adding, withdrawing, substituting, and holding pooled securities, and regulations prescribing the form, content, and execution of any application, report, or other document called for in any of the sections specified in subdivision (a) or in any regulation or order issued under any of those sections.

(2) The administrator, for good cause, may waive any provision of

any regulation adopted pursuant to paragraph (1) or any order issued under this article, where the provision is not necessary in the public interest.

(d) The administrator may enter into any contracts or agreements as may be necessary, including joint underwriting agreements, to sell or liquidate eligible securities securing local agency deposits in the event of the failure of the depository or if the depository fails to pay all or part of the deposits of a local agency.

(e) The administrator shall require from every depository a report certified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, to determine whether there is compliance with Section 53652. These reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. These reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for the report.

(f) The administrator may have access to reports of examination made by the Comptroller of the Currency insofar as the reports relate to national banking association trust department activities which are subject to this article.

(g) (1) The administrator shall require the immediate substitution of an eligible security, where the substitution is necessary for compliance with Section 53652, if (i) the administrator determines that a security listed in Section 53651 is not qualified to secure public deposits, or (ii) a treasurer, who has deposits secured by the securities pool, provides written notice to the administrator and the administrator confirms that a security in the pool is not qualified to secure public deposits.

(2) The failure of a depository to substitute securities, where the administrator has required the substitution, shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition, shall be reported as follows:

(A) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(B) When that depository is a state bank, to the Superintendent of Banks.

(C) When that depository is a federal association, to the Federal Home Loan Bank Board.

(D) When that depository is a savings association, to the Savings and Loan Commissioner.

(E) When that depository is a federal credit union, to the National Credit Union Administration.

(F) When that depository is a state credit union or a federally insured industrial loan company, to the Commissioner of Corporations.

(h) The administrator may require from each treasurer a

registration report and at appropriate times a report stating the amount and location of each deposit together with other information deemed necessary by the administrator for effective operation of this article. The facts recited in any report from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him or her by this article and for no other purpose.

(i) (1) If, after notice and opportunity for hearing, the administrator finds that any depository or agent of depository has violated or is violating, or that there is reasonable cause to believe that any depository or agent of depository is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued under any of those sections, the administrator may order the depository or agent of depository to cease and desist from the violation or may by order suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(2) (A) If the administrator makes any of the findings set forth in paragraph (1) with respect to any depository or agent of depository and, in addition, finds that the violation or the continuation of the violation is likely to seriously prejudice the interests of treasurers, the administrator may order the depository or agent of depository to cease and desist from the violation or may suspend or revoke the authorization of the agent of depository. The order may require the depository or agent of depository to take affirmative action to correct any condition resulting from the violation.

(B) Within five business days after an order is issued under subparagraph (A), the depository or agent of depository may file with the administrator an application for a hearing on the order. The administrator shall schedule a hearing at least 30 days, but not more than 40 days, after receipt of an application for a hearing or within a shorter or longer period of time agreed to by a depository or an agent of depository. If the administrator fails to schedule the hearing within the specified or agreed to time period, the order shall be deemed rescinded. Within 30 days after the hearing, the administrator shall affirm, modify, or rescind the order; otherwise, the order shall be deemed rescinded. The right of a depository or agent of depository to which an order is issued under subparagraph (A) to petition for judicial review of the order shall not be affected by the failure of the depository or agent of depository to apply to the administrator for a hearing on the order pursuant to this subparagraph.

(3) Whenever the administrator issues a cease and desist order under paragraph (1) or (2), the administrator may in the order restrict the right of the depository to withdraw securities from a security pool; and, in that event, both the depository to which the order is directed and the agent of depository which holds the security pool shall comply with the restriction.

(4) In case the administrator issues an order under paragraph (1) or (2) suspending or revoking the authorization of an agent of depository, the administrator may order the agent of depository at its own expense to transfer all pooled securities held by it to such agent of depository as the administrator may designate in the order. The agent of depository designated in the order shall accept and hold the pooled securities in accordance with this article and regulations and orders issued under this article.

(j) In the discretion of the administrator, whenever it appears to the administrator that any person has violated or is violating, or that there is reasonable cause to believe that any person is about to violate, any of the sections specified in subdivision (a) or any regulation or order issued thereunder, the administrator may bring an action in the name of the people of the State of California in the superior court to enjoin the violation or to enforce compliance with those sections or any regulation or order issued thereunder. Upon a proper showing a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

(k) In addition to other remedies, the administrator shall have the power and authority to impose the following sanctions for noncompliance with the sections specified in subdivision (a) after a hearing if requested by the party deemed in noncompliance. Any fine assessed pursuant to this subdivision shall be paid within 30 days after receipt of the assessment.

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars ($250) for each day the depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by that section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars ($100) for each day beyond the time period specified in subdivision (e) that a depository negligently or willfully fails to file in the office of the administrator a written report required by that subdivision.

(4) Assess and collect from an agent of depository a fine not to exceed one hundred dollars ($100) for each day the agent of depository fails to comply with any of the applicable sections specified in subdivision (a) or any applicable regulation or order issued thereunder.

(*l*) (1) In the event that a depository or agent of depository fails to pay a fine assessed by the administrator pursuant to subdivision (k) within 30 days of receipt of the assessment, the administrator may assess and collect an additional penalty of 5 percent of the fine for each month or part thereof that the payment is delinquent.

(2) If a depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers with deposits in the depository.

(3) If an agent of depository fails to pay the fines or penalties assessed by the administrator, the administrator may notify local agency treasurers who have authorized the agent of depository as provided in Sections 53649 and 53656, and may by order revoke the authorization of the agent of depository as provided in subdivision (i).

SEC. 6. Section 53676 of the Government Code is amended to read:

53676. The treasurer is not responsible for securities delivered to and receipted for by any bank, savings and loan association, credit union, federally insured industrial loan company, or trust company.

SEC. 7. Section 53679 of the Government Code is amended to read:

53679. So far as possible all money belonging to a local agency under the control of any of its officers or employees other than the treasurer or a judge or officer of a justice or municipal court shall, and all money coming into the possession of a judge or officer of a justice or municipal court may, be deposited as active deposits in the state or national bank, inactive deposits in the state or national bank or state or federal association, federal or state credit union, or federally insured industrial loan company in this state selected by the officer, employee, or judge of the court. For purposes of this section, an officer or employee of a local agency and a judge or officer of a justice or municipal court are prohibited from depositing local agency funds or money coming into their possession into a state or federal credit union if an officer or employee of the local agency, or a judge or officer of a justice or municipal court, also serves on the board of directors, or any committee appointed by the board of directors, or the credit committee or supervisory committee, of the particular state or federal credit union. Such money is subject to this article except:

(a) Deposits in an amount less than that insured pursuant to federal law are not subject to this article.

For deposits in excess of the amount insured under any federal law a contract in accordance with Section 53649 is required and the provisions of this article shall apply.

(b) Interest is not required on money deposited in an active deposit by a judge or officer of a justice or municipal court.

(c) Interest is not required on money deposited in an active deposit by an officer having control of a revolving fund created pursuant to Chapter 2 (commencing with Section 29300) of Division 3 of Title 3.

(d) Interest is not required on money deposited in an active deposit by an officer having control of a special fund established pursuant to Articles 5 (commencing with Section 29400) or 6 (commencing with Section 29430) of Chapter 2 of Division 3 of Title 3.

SEC. 8. Sections 1 to 7, inclusive, of this act shall become operative only if Assembly Constitutional Amendment No. 63 of the 1987–88 Regular Session is adopted by the people, in which case Sections 1 to 7, inclusive, of this act shall become operative at the same time as the constitutional amendment or January 1, 1989, whichever is later.

CHAPTER 1005

An act to add and repeal Section 12829 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 12829 is added to the Food and Agricultural Code, to read:

12829. (a) If a person holds a research authorization for an economic poison issued pursuant to Section 6260 of Title 3 of the California Code of Regulations for the purpose of testing the product, and the produce on which the product was tested must be destroyed, any actual costs incurred by the commissioner to investigate and confirm the destruction of the produce shall be paid for by the person holding the research authorization. Costs charged by the commissioner shall not exceed one hundred twenty-five dollars ($125) per test site. The board of supervisors may determine a fee schedule for the commissioner's costs under this section.

(b) This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1991, deletes or extends that date.

CHAPTER 1006

An act to amend Sections 2941 and 2941.5 of the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 2941 of the Civil Code is amended to read:

2941. (a) Within 30 days after any mortgage has been satisfied, the mortgagee or the assignee of the mortgagee shall execute a

certificate of the discharge thereof, as provided in Section 2939, and shall record or cause to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the mortgage is recorded. The mortgagee shall then deliver, upon the written request of the mortgagor or the mortgagor's heirs, successors, or assignees, as the case may be, the original note and mortgage to the person making the request.

(b) (1) When the obligation secured by any deed of trust has been satisfied, the beneficiary or the assignee of the beneficiary shall execute and deliver to the trustee the original note, deed of trust, request for a full reconveyance, and such other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(A) The trustee shall execute the full reconveyance and shall record or cause it to be recorded, except as provided in subdivision (c), in the office of the county recorder in which the deed of trust is recorded within 21 calendar days after receipt by the trustee of the original note, deed of trust, request for a full reconveyance, the fee that may be charged pursuant to subdivision (e), recorder's fees, and such other documents as may be necessary to reconvey, or cause to be reconveyed, the deed of trust.

(B) The trustee shall deliver a copy of the reconveyance to the beneficiary, its successor in interest, or its servicing agent, if known.

(C) Following execution and recordation of the full reconveyance, upon receipt of a written request by the trustor or the trustor's heirs, successors, or assignees, the trustee shall then deliver the original note and deed of trust to the person making that request.

(2) If the trustee has failed to execute and record, or cause to be recorded, the full reconveyance within 60 calendar days of satisfaction of the obligation, the beneficiary, upon receipt of a written request by the trustor or trustor's heirs, successor in interest, agent, or assignee, shall execute and acknowledge a document pursuant to Section 2934a substituting itself or another as trustee and issue a full reconveyance.

(3) If a full reconveyance has not been executed and recorded pursuant to the provisions of either paragaph (1) or paragraph (2) within 75 calendar days of satisfaction of the obligation, then a title insurance company may prepare and record a release of the obligation. However, at least 10 days prior to the issuance and recording of a full release pursuant to this paragraph, the title insurance company shall mail by first-class mail with postage prepaid, the intention to release the obligation to the trustee, trustor, and beneficiary of record, or their successor in interest of record, at the last known address.

(A) The release shall set forth:

(i) The name of the beneficiary.

(ii) The name of the trustor.

(iii) The recording reference to the deed of trust.

(iv) A recital that the obligation secured by the deed of trust has been paid in full.

(v) The date and amount of payment.

(B) The release issued pursuant to this subdivision shall be entitled to recordation and, when recorded, shall be deemed to be the equivalent of a reconveyance of a deed of trust.

(4) Where an obligation secured by a deed of trust was paid in full prior to July 1, 1989, and no reconveyance has been issued and recorded by October 1, 1989, then a release of obligation as provided for in paragraph (3) may be issued.

(5) Paragraphs (2) and (3) do not excuse the beneficiary or the trustee from compliance with paragraph (1). Paragraph (3) does not excuse the beneficiary from compliance with paragraph (2).

(6) In addition to any other remedy provided by law, a title insurance company preparing or recording the release of the obligation shall be liable to any party for damages, including attorneys' fees, which any person may sustain by reason of the issuance and recording of the release, pursuant to paragraphs (3) and (4).

(c) The mortgagee or trustee shall not record or cause the certificate of discharge or full reconveyance to be recorded when any of the following circumstances exists:

(1) The mortgagee or trustee has received written instructions to the contrary from the mortgagor or trustor, or the owner of the land, as the case may be, or from the owner of the obligation secured by the deed of trust or his or her agent, or escrow.

(2) The certificate of discharge or full reconveyance is to be delivered to the mortgagor or trustor, or the owner of the land, as the case may be, through an escrow to which the mortgagor, trustor, or owner is a party.

(3) When the personal delivery is not for the purpose of causing recordation and when the certificate of discharge or full reconveyance is to be personally delivered with receipt acknowledged by the mortgagor or trustor or owner of the land, as the case may be, or their agent if authorized by mortgagor or trustor or owner of the land.

(d) The violation of any provision of this section shall make the violator liable to the person affected by the violation for all damages which that person may sustain by reason of the violation, and shall require that the violator forfeit to that person the sum of three hundred dollars ($300).

(e) (1) The trustee, beneficiary, or mortgagee may charge a reasonable fee to the trustor or mortgagor, or the owner of the land, as the case may be, for all services involved in the preparation, execution, and recordation of the full reconveyance, including, but not limited to, document preparation and forwarding services rendered to effect the full reconveyance, and, in addition, may collect official fees. This fee may be made payable no earlier than the opening of a bona fide escrow or no more than 60 days prior to the full satisfaction of the obligation secured by the deed of trust or mortgage.

(2) If the fee charged pursuant to this subdivision does not exceed sixty-five dollars ($65), the fee is conclusively presumed to be reasonable. This paragraph shall only be operative until January 1, 1992.

SEC. 2. Section 2941.5 of the Civil Code is amended to read:

2941.5. Every person who willfully violates Section 2941 is guilty of a misdemeanor punishable by fine of not less than fifty dollars ($50) nor more than four hundred dollars ($400), or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment.

For purposes of this section, "willfully" means simply a purpose or willingness to commit the act, or make the omission referred to. It does not require an intent to violate the law, to injure another, or to acquire any advantage.

SEC. 3. This act shall become operative on July 1, 1989. The amendments made by this act shall only apply prospectively.

SEC. 4. It is the intent of the Legislature that the provisions of this act shall not create any inference regarding the amount or timing of fees charged pursuant to the provisions of Section 2941 of the Civil Code prior to July 1, 1989, nor as to the timing of requests for, and executions or recordings of, full reconveyances prior to July 1, 1989.

CHAPTER 1007

An act to add Sections 4842.6, 4846.4, and 4853.1 to the Business and Professions Code, relating to veterinary medicine.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 4842.6 is added to the Business and Professions Code, to read:

4842.6. (a) Each individual registered by the board shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the board.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to

determine if cause for disciplinary action exists.

SEC. 2. Section 4846.4 is added to the Business and Professions Code, to read:

4846.4. (a) Each individual licensed by the board shall biennially apply for renewal of his or her license or registration on or before the last day of the applicant's birthday month. The application shall be made on a form provided by the board.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

SEC. 3. Section 4853.1 is added to the Business and Professions Code, to read:

4853.1. (a) Each application to register a premise pursuant to Section 4853 shall be made on a form provided by the board. An application for renewal of that registration shall be made annually.

(b) The application shall contain a statement to the effect that the applicant has not been convicted of a felony, has not been the subject of professional disciplinary action taken by any public agency in California or any other state or territory, and has not violated any of the provisions of this chapter. If the applicant is unable to make that statement, the application shall contain a statement of the conviction, professional discipline, or violation.

(c) The board may, as part of the renewal process, make necessary inquiries of the applicant and conduct an investigation in order to determine if cause for disciplinary action exists.

CHAPTER 1008

An act to amend Sections 4000, 4000.4, 22651, 40152, and 42001.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 15, 1988. Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 4000 of the Vehicle Code is amended to read:

4000. (a) (1) No person shall drive, move, or leave standing upon a highway, or in an offstreet public parking facility, any motor vehicle, trailer, semitrailer, pole or pipe dolly, logging dolly, or

auxiliary dolly unless it is registered and the appropriate fees have been paid under this code, except that an off-highway motor vehicle which displays an identification plate or device issued by the department pursuant to Section 38010 may be driven, moved, or left standing in an offstreet public parking facility without being registered or paying registration fees.

(2) For purposes of this subdivision, "offstreet public parking facility" means either of the following:

(A) Any publicly owned parking facility.

(B) Any privately owned parking facility for which no fee for the privilege to park is charged and which is held open for the common public use of retail customers.

(3) This subdivision does not apply to any motor vehicle stored in a privately owned offstreet parking facility by, or with the express permission of, the owner of the privately owned offstreet parking facility.

(b) No person shall drive, move, or leave standing upon a highway any motor vehicle, as defined in Chapter 2 (commencing with Section 39010) of Part 1 of Division 26 of the Health and Safety Code, which has been registered in violation of Part 5 (commencing with Section 43000) of that Division 26.

(c) Subdivisions (a) and (b) do not apply to off-highway motor vehicles operated pursuant to Sections 38025 and 38026.5.

(d) This section does not apply, following payment of fees due for registration, during the time that registration and transfer is being withheld by the department pending the investigation of any use tax due under the Revenue and Taxation Code.

(e) When a vehicle is towed by a tow car on order of a sheriff, marshal, or other official acting pursuant to a court order or on order of a peace officer acting pursuant to Chapter 10 (commencing with Section 22650) of Division 11, subdivision (a) of this section does not apply.

(f) For purposes of this section, possession of a California driver's license by the registered owner of a vehicle shall give rise to a rebuttable presumption that the owner is a resident of California.

SEC. 2. Section 4000.4 of the Vehicle Code is amended to read:

4000.4. (a) Except as provided in Sections 6700, 6702, and 6703, any vehicle which is registered to a nonresident owner, and which is based in California or primarily used on California highways, shall be registered in California.

(b) For purposes of this section, a vehicle is deemed to be primarily or regularly used on the highways of this state if the vehicle is located or operated in this state for a greater amount of time than it is located or operated in any other individual state during the registration period in question.

SEC. 3. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in

directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located, may remove a vehicle located within the territorial limits in which the officer or employee may act, under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway or any public lands and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway or any public lands are, by reason of physical injuries or illness, incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle, other than a rented vehicle, is found upon a highway or any public lands and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded to the agency responsible for processing notices of parking violations, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued for an unlawfully parked vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement

agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

A vehicle shall be released to the legal owner, as defined in Section 370, if the legal owner does all of the following:

(1) Pays the cost of towing and storing the vehicle.

(2) Submits evidence of payment of fees as provided in Section 9561.

(3) Completes an affidavit in a form acceptable to the impounding law enforcement agency stating that the vehicle was not in possession of the legal owner at the time of occurrence of the offenses relating to standing or parking. A vehicle released to a legal owner under this subdivision is a repossessed vehicle for purposes of disposition or sale. The impounding agency shall have a lien on any surplus that remains upon sale of the vehicle to which the registered owner is or may be entitled, as security for the deposit of bail for all notices of parking violations issued for the vehicle. The legal owner shall promptly remit to, and deposit with, the agency responsible for processing notices of parking violations from that surplus, on receipt thereof, bail for all notices of parking violations issued for the vehicle.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway, or a portion thereof, is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would

prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any vehicle is found upon a highway, any public lands, or an offstreet parking facility with a registration expiration date in excess of one year before the date it is found on the highway, public lands, or the offstreet parking facility. However, if the vehicle is occupied, only a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove the vehicle. For purposes of this subdivision, the vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

As used in this subdivision, "offstreet parking facility" means any offstreet facility held open for use by the public for parking vehicles and includes any publicly owned facilities for offstreet parking, and privately owned facilities for offstreet parking where no fee is charged for the privilege to park and which are held open for the common public use of retail customers.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway or any public lands shall not be released to the registered owner or his or her agent, except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle or upon order of a court.

(q) Whenever any vehicle is parked for more than 24 hours on a portion of highway which is located within the boundaries of a common interest development, as defined in subdivision (c) of Section 1351 of the Civil Code, and signs, as required by Section 22658.2, have been posted on that portion of highway providing notice to drivers that vehicles parked thereon for more than 24 hours will be removed at the owner's expense, pursuant to a resolution or ordinance adopted by the local authority.

SEC. 4. Section 40152 of the Vehicle Code is amended to read:

40152. (a) Whenever any vehicle or combination of vehicles is found to be not registered as required by this code, and a notice to appear is issued or a complaint filed for such violation, the person to whom the notice to appear is issued or against whom the complaint is filed shall produce in court satisfactory evidence that the vehicle or combination of vehicles is registered, had appropriate fees paid,

or is reduced to junk, to conform with the requirements of this code. The court shall not adjudicate the offense until that evidence is produced.

(b) A four-day, nonresident commercial trip permit of the type authorized in Section 4004 may not be accepted as evidence of registration compliance as required in subdivision (a) of this section.

SEC. 5. Section 42001.5 of the Vehicle Code is amended to read:

42001.5. Every person convicted of an infraction for a violation of Section 22507.8 shall be punished by a fine of not less than one hundred dollars ($100). No part of any fine imposed shall be suspended. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment.

CHAPTER 1009

An act to amend Sections 7851, 8210.2, 8215, 8282, 8305, 8389, 8400, 8601, 8780, 9020, 9025, 9050, 11024, and 11025 of, and to repeal Sections 8397, 8662, 9027, and 11023 of, the Fish and Game Code, relating to commercial fishing.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

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

SECTION 1. Section 7851 of the Fish and Game is amended to read:

7851. The application for a commercial fishing license shall contain a statement of the applicant's age, height, weight, the color of eyes and hair, and a statement as to whether or not the applicant is a citizen of the United States.

SEC. 1.5. Section 8210.2 of the Fish and Game Code is amended to read:

8210.2. Except as modified by the director pursuant to Section 7652, salmon may be taken under authority of a commercial fishing license and a commercial fishing salmon stamp only in Districts 6, 7, 10, 11, 16, 17, 18, and 19. All species of salmon, except silver salmon, may be taken only between April 15 and September 30. Silver salmon may be taken only between May 15 and September 30. No king salmon may be possessed that is less than 26 inches in length and no silver salmon may be possessed that is less than 22 inches. The length of salmon is to be measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail. Salmon may be taken for commercial purposes only by hook and line and there is no bag limit.

SEC. 2. Section 8215 of the Fish and Game Code is amended to read:

8215. Silver salmon may not be sold or possessed in, or transported through, District 6, 7, 10, 11, 16, 17, or 18, during the time when the taking of silver salmon for commercial purposes is unlawful in those districts.

SEC. 3. Section 8282 of the Fish and Game Code is amended to read:

8282. Subject to this article and Article 1 (commencing with Section 9000) of Chapter 4, rock crab may be taken in traps in any waters of the state at any time, except in Districts 19A, 19B, and 21 and those portions of District 20 lying on the north and east sides of Santa Catalina Island north of Southeast Rock.

SEC. 4. Section 8305 of the Fish and Game Code is amended to read:

8305. (a) It is unlawful to take abalone for commercial purposes in Districts 6, 7, 16, 17, and 19A; in District 10 north of Point Lobos; and in District 20 between Southeast Rock and the extreme westerly end of Santa Catalina Island.

(b) It is unlawful to take abalone for commercial purposes in waters less than 20 feet deep in District 10 adjacent to the mainland south of Point Lobos; District 19 adjacent to the mainland south of Point Dume; District 20 between Southeast Rock and China Point; and District 20A.

SEC. 5. Section 8389 of the Fish and Game Code is amended to read:

8389. (a) Herring eggs may only be taken for commercial purposes under a revocable, nontransferable permit subject to such regulations as the commission shall prescribe. In addition to the license fees provided for in this code, every person taking herring eggs under this section shall pay a royalty, as the commission may prescribe, of not less than fifty dollars ($50) per ton of herring eggs taken.

(b) Whenever necessary to prevent overutilization, to ensure efficient and economic operation of the fishery, or to otherwise carry out this article, the commission may limit the number of permits which are issued and the amount of herring eggs taken under those permits.

(c) In limiting the number of permits, the commission shall take into consideration any restriction of the fishing area and the safety of others who, for purposes other than fishing, use the waters from which herring eggs are taken.

(d) Every person operating under a permit issued pursuant to this section is excepted from the provisions of Chapter 6 (commencing with Section 6650) of Part 1 of Division 6 for aquatic plants taken incidental to the harvest of herring eggs.

SEC. 6. Section 8397 of the Fish and Game Code is repealed.

SEC. 7. Section 8400 of the Fish and Game Code is amended to read:

8400. (a) California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius

flavimanus) may only be taken for commercial purposes with baitfish traps in the tidewaters of Districts 3½, 4, 4⅛, 4¾, 16, 17, and 21, in the tidewaters of District 10 south of the City and County of San Francisco, in the Salton Sea, and in Imperial and Riverside Counties.

(b) Shiner perch (Cymatogaster aggregata), staghorn sculpin (Leptocottus armatus), mudsuckers (Gillichthys mirabilis), and yellowfin gobies (Acanthogobius flavimanus) may only be taken for commercial purposes with baitfish traps in Districts 11, 12, and 13 and in the tidewaters of Districts 2 and 2½.

(c) Any unauthorized species taken incidentally in baitfish traps in the districts specified in subdivisions (a) and (b) shall be immediately released.

(d) Baitfish traps, as described in Section 9020, may be used subject to Article 1 (commencing with Section 9000) of Chapter 4.

SEC. 8. Section 8601 of the Fish and Game Code is amended to read:

8601. Any net or line that is anchored to the bottom on each end and is not free to drift with the tide or current is a set net or set line. Any net so placed that it will catch or impound fish within a bight, bay, or estuary, or against the shore upon the receding of the tide is a set net. Any set net or set line shall be marked at either end with a buoy displaying above its waterline in numerals at least two inches high, the California Fish and Game number of the vessel from which such net is being fished. Fyke nets, shrimp nets, or crab nets are not set nets.

SEC. 9. Section 8662 of the Fish and Game Code is repealed.

SEC. 10. Section 8780 of the Fish and Game Code, as amended by Section 2 of Chapter 1370 of the Statutes of 1987, is amended to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier.

(d) No other species of fish may be taken on any boat carrying a bait net in District 19A, except that loads or lots of fish may contain not more than 18 percent by weight of the fish, of other bait fish species taken incidentally to other fishing operations and which are mixed with other fish in the load or lot.

(e) This section shall remain in effect only until July 1, 1991, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1991, deletes or extends that date.

SEC. 11. Section 8780 of the Fish and Game Code, as added by Section 3 of Chapter 1370 of the Statutes of 1987, is amended to read:

8780. (a) As used in this chapter, the term "bait net" means a lampara or round haul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. The net shall not have rings along the lead line or any method of pursing the bottom of the net.

(b) Bait nets may be used to take fish for bait in Districts 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 19B, 20A, 21, 118, and 118.5.

(c) In District 19A, bait nets may be used only to take anchovies, queenfish, white croakers, and smelt for bait only. Bait nets may not be used within 750 feet of Seal Beach Pier or Belmont Pier. No other species of fish may be taken on any boat carrying a bait net in District 19A.

(d) This section shall become operative on July 1, 1991.

SEC. 12. Section 9020 of the Fish and Game Code is amended to read:

9020. (a) Subject to Section 8400, California killifish (Fundulus parvipinnis), mudsuckers (Gillichthys mirabilis), yellowfin gobies (Acanthogobius flavimanus), shiner perch (Cymatogaster aggregata), and staghorn sculpin (Leptocottus armatus) may be taken with baitfish traps under a general trap permit issued pursuant to Section 9001.

(b) A baitfish trap shall not exceed 12 inches in width, 12 inches in height, and 36 inches in greatest length with entrance at small ends of funnels or fykes not to exceed 2 inches in diameter.

SEC. 13. Section 9025 of the Fish and Game Code is amended to read:

9025. Troll lines or handlines having not more than two hooks (plugs excepted) may be used in any district, and troll lines with more than two hooks may be used in Districts 6, 7, 10, 16, 17, 18, 19, and 19A, and that portion of District 11 west of the Golden Gate Bridge.

SEC. 14. Section 9027 of the Fish and Game Code is repealed.

SEC. 15. Section 9050 of the Fish and Game Code is amended to read:

9050. A spade, shovel, hoe, rake, or other appliance operated by hand may be used to take mollusks, sand crabs, and shrimps in Districts 1, 1½, 2, 2½, 3, 3½, 4, 4⅛, 4¾, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 19A, 20, 20A, and 21, except as specified in Sections 7332 and 8303, and except that freshwater clams shall not be taken by means of such appliances on any levee or on the berm of any levee.

SEC. 16. Section 11023 of the Fish and Game Code is repealed.

SEC. 17. Section 11024 of the Fish and Game Code is amended to read:

11024. The following constitutes Fish and Game District 16:

The waters and tidelands to high-water mark of that portion of Monterey Bay lying to the south of a line drawn 100° magnetic from the extreme northerly point of Point Pinos in a straight line easterly to the eastern shore of Monterey Bay.

SEC. 18. Section 11025 of the Fish and Game Code is amended to read:

11025. The following constitutes Fish and Game District 17:

The waters and tidelands to high-water mark of Monterey Bay and the Pacific Ocean, lying between a line extending west from Pigeon Point Lighthouse and a line extending west from Yankee Point, Carmel Highlands in Monterey County, excluding the areas included in District 16, and excluding all rivers, creeks, sloughs and lagoons emptying into the Pacific Ocean and Monterey Bay within the boundaries thus defined.

SEC. 19. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1010

An act to amend Section 113 of, and to add Sections 403, 2202, and 2805 to, the Health and Safety Code, relating to mosquito abatement, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 113 of the Health and Safety Code is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 403, 436.53, 527, 1616, 1676, 1677, 2202, 2805, 4042, 4042.2, 4042.3, 4083, 11887, 23013, 25198.7, 25694, 25696, 25697, 25816, 25817, 26506.2, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and

publication of the fee list shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 1.5. Section 113 of the Health and Safety Code, as amended by Section 1 of this act, is amended to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Sections 403, 436.53, 527, 1017, 1616, 1676, 1677, 2202, 2805, 4042, 4042.2, 4042.3, 4083, 11887, 23013, 25694, 25696, 25697, 25816, 25817, 26506.2, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the state department. After the first annual adjustment of fees or charges pursuant to this section, the fees or charges subject to subsequent adjustment shall be the fees or charges for the prior calendar year. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The state department shall publish annually a list of the actual numerical fee charges for each permit, license, certification, or registration governed by this section. This adjustment of fees and publication of the fee list pursuant to subdivision (d) of Section 1017 shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code until January 1, 1992.

SEC. 2. Section 403 is added to the Health and Safety Code, to read:

403. (a) Except as otherwise provided in subdivision (b) or (h), every government agency employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the state department as a vector control technician in at least one of the following categories commensurate with assigned duties, as follows:

(1) Mosquito control.

(2) Terrestrial invertebrate vector control.

(3) Vertebrate vector control.

(b) The state department may establish, by regulation, exemptions from the requirements of this section which are deemed reasonably necessary to further the purposes of this section.

(c) The state department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 402 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education units shall be maintained by the state department. If a certified technician fails to meet the requirements set forth under subdivision

(c), the state department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing agency. The state department shall establish by regulation procedures for reinstating a suspended certificate.

(e) The state department shall charge and collect a nonreturnable renewal fee of twenty-five dollars ($25) to be paid by each continuing education certificant on or before the first day of July, or on any other date which is determined by the state department. Each person employed in a position on the effective date of this section which requires certification shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The state department shall collect and account for all money received pursuant to this section and shall deposit it in the Mosquitoborne Disease Surveillance Account provided for in Section 25852 of the Government Code. Notwithstanding Section 25852 of the Government Code, fees deposited in the Mosquitoborne Disease Surveillance Account pursuant to this section shall be available for expenditure upon appropriation by the Legislature to implement this section.

(g) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 113.

(h) Employees of the Department of Food and Agriculture and county agriculture departments holding, or working under the supervision of an employee holding, a valid Qualified Applicator Certificate in Health Related Pest Control issued by the licensing and certification program of the Department of Food and Agriculture shall be exempt from this section.

SEC. 3. Section 2202 is added to the Health and Safety Code, to read:

2202. (a) Except as otherwise provided in subdivision (b), every mosquito abatement district or vector control district employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the state department as a vector control technician, in at least one of the following categories commensurate with the assigned duties:

(1) Mosquito control.

(2) Terrestrial invertebrate vector control.

(3) Vertebrate vector control.

(b) The state department may establish, by regulation, exemptions from the requirements of this section which are deemed reasonably necessary to further the purposes of this section.

(c) The state department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 402 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education

units shall be maintained by the state department. If a certified technician fails to meet the requirements set forth under subdivision (c), the state department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing district. The state department shall establish by regulation procedures for reinstating a suspended certificate.

(e) The state department shall charge and collect a nonreturnable renewal fee of twenty-five dollars ($25) to be paid by each continuing education certificant on or before the first day of July, or on any other date which is determined by the state department. Each person employed in a position on the effective date of this section which requires certification shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The state department shall collect and account for all money received pursuant to this section and shall deposit it in the Mosquitoborne Disease Surveillance Account provided for in Section 25852 of the Government Code. Notwithstanding Section 25852 of the Government Code, fees deposited in the Mosquitoborne Disease Surveillance Account pursuant to this section shall be available for expenditure upon the appropriation by the Legislature to implement this section.

(g) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 113.

SEC. 4. Section 2805 is added to the Health and Safety Code, to read:

2805. (a) Except as otherwise provided in subdivision (b), every pest abatement district employee who handles, applies, or supervises the use of any pesticide for public health purposes, shall be certified by the state department as a vector control technician in at least one of the following categories commensurate with assigned duties:

(1) Mosquito control.

(2) Terrestrial invertebrate vector control.

(3) Vertebrate vector control.

(b) The state department may establish, by regulation, exemptions from the requirements of this section which are deemed reasonably necessary to further the purposes of this section.

(c) The state department shall establish by regulation minimum standards for continuing education for any government agency employee certified under Section 402 and regulations adopted pursuant thereto, who handles, applies, or supervises the use of any pesticide for public health purposes.

(d) An official record of the completed continuing education units shall be maintained by the state department. If a certified technician fails to meet the requirements set forth under subdivision (c), the state department shall suspend the technician's certificate or certificates and immediately notify the technician and the employing district. The state department shall establish by

regulation procedures for reinstating a suspended certificate.

(e) The state department shall charge and collect a nonreturnable renewal fee of twenty-five dollars ($25) to be paid by each continuing education certificant on or before the first day of July, or on any other date which is determined by the state department. Each person employed in a position on the effective date of this section which requires certification shall first pay the annual fee the first day of the first July following that date. All new certificants shall first pay the annual fee the first day of the first July following their certification.

(f) The state department shall collect and account for all money received pursuant to this section and shall deposit it in the Mosquitoborne Disease Surveillance Account provided for in Section 25852 of the Government Code. Notwithstanding Section 25852 of the Government Code, fees deposited in the Mosquitoborne Disease Surveillance Account pursuant to this section shall be available for expenditure upon appropriation by the Legislature to implement this section.

(g) Fees collected pursuant to this section shall be subject to the annual fee increase provisions of Section 113.

SEC. 5. The Director of Health Services shall adopt regulations implementing this act, as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, any regulations adopted pursuant to this act shall be deemed to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.

SEC. 5.5. Section 1.5 of this bill incorporates amendments to Section 113 of the Health and Safety Code proposed by both this bill and AB 3739. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, but this bill becomes operative first, (2) each bill amends Section 113 of the Health and Safety Code, and (3) this bill is enacted after AB 3739, in which case Section 113 of the Health and Safety Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 3739, at which time Section 1.5 of this bill shall become operative.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The United States Environmental Protection Agency is expected to promulgate standards for pesticide applicator continuing education by July 1988. In order to ensure that the state standards required by this act can be adopted as soon as possible, and will be in conformance with the federal requirements, it is necessary that this act go into immediate effect.

CHAPTER 1011

An act to amend Sections 4521, 4535, 4540, 4550, 4551, 4552, 4561, 4565, 4566, 4567, 4568, 4592, and 4611 of, and to add Section 4521.5 to, the Welfare and Institutions Code, relating to developmental disabilities.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 4521 of the Welfare and Institutions Code is amended to read:

4521. All references to "state council" in this part shall be a reference to the State Council on Developmental Disabilities.

There shall be 19 voting members on the state council appointed by the Governor, as follows:

(a) Ten members of the council appointed by the Governor shall be persons with a developmental disability, as defined in 42 U.S.C. Sec. 6001(7), or parents, siblings, guardians or conservators of these persons residing in California and who are not employees of a state, local, or private agency or facility which receives funds from the rehabilitation, comprehensive services, and developmental disabilities legislation, as amended, or provides services to the developmentally disabled. Four of these members shall be persons with a developmental disability, and three shall be parents, siblings, guardians, or conservators of persons with mentally impairing developmental disabilities.

(b) Nine members of the council appointed by the Governor shall include:

(1) The Secretary of the Health and Welfare Agency, or his or her designee, who shall represent the agency and the state agency that administers funds under Title XIX of the Social Security Act for people with developmental disabilities.

(2) The Director of Developmental Services or his or her chief deputy.

(3) The Director of Rehabilitation or his or her chief deputy.

(4) The Superintendent of Public Instruction or his or her designee.

(5) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(6) A representative of a higher education training facility providing training in the field of developmental services. That individual shall have expertise in the field of developmental disabilities, and shall also represent all university-affiliated facilities and satellite centers in the state established pursuant to 42 U.S.C. Sec. 6000 et seq.

(7) The Chairperson of the Organization of Area Boards.

(8) A member of the board of directors of the agency established in California to fulfill the requirements and assurance of Section 142 of the Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities.

(9) The Director of Aging or his or her chief deputy.

(c) Prior to appointing the 10 members, pursuant to subdivision (a), the Governor shall receive two nominations from the Senate Rules Committee and two nominations from the Speaker of the Assembly. These nominations shall be as follows:

(1) One nomination each shall be a person with a developmental disability as defined in 42 U.S.C. Sec. 6001(7).

(2) One nomination each shall be a parent, sibling, guardian, or conservator of a person with a developmental disability as defined in 42 U.S.C. Sec. 6001(7).

(3) Of the remaining six members, appointed by the Governor, at least two shall be a person with a developmental disability as defined in 42 U.S.C. 6001(7); at least one shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability; at least one shall be a person who is an immediate relative, guardian, or conservator of a resident of a state hospital or developmental center; and at least one shall be a person who is an immediate relative, guardian, or conservator of a developmentally disabled person living in the community and one person may be selected from any of the categories specified in this paragraph.

(d) Prior to appointing the 10 members, pursuant to subdivision (a), the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons who are developmentally disabled and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

(e) The term of each member described in subdivision (a) shall be for three years; provided, however, of the members first appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. In no event shall any member described in subdivision (a) serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after March 4, 1972, including membership on the State Developmental Disabilities Planning and Advisory Council under former Section 38200 of the Health and Safety Code (Ch. 908, Stats. 1971), shall be included in determining the total length of service.

(f) Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if the reappointment is in conformity with all of the criteria established in this chapter.

SEC. 2. Section 4521.5 is added to the Welfare and Institutions Code, to read:

4521.5. Notwithstanding Section 7.5 of the Government Code, for purposes of this chapter, the Secretary of Health and Welfare, the

Director of Developmental Services, the Director of Rehabilitation, and the Director of Aging may designate his or her chief deputy of his or her department or agency to act as the member in his or her place and stead to all intents and purposes as though the director or secretary were personally present, including the right of the chief deputy to be counted in constituting a quorum to participate in the proceeding of the state council and to vote upon any and all matters.

Each chief deputy so designated shall have the right to represent the director or secretary who appointed him or her regardless of the number of other deputies designated to represent directors or secretaries at a particular meeting or session of the state council. Each chief deputy shall represent only one director or secretary at any meeting or session of the state council.

SEC. 3. Section 4535 of the Welfare and Institutions Code is amended to read:

4535. The state council shall meet at least nine times each year, and, on call of its chairperson, as often as necessary to fulfill its duties. All meetings and records of the state council shall be open to the public.

The state council shall, by majority vote of the voting members, elect its own chairperson and vice chairperson who shall have full voting rights on all state council actions, from among the 10 appointed members, described in subdivision (a) of Section 4521, and shall establish such committees as it deems necessary or desirable. The chairperson shall appoint all members of committees of the state council.

The state council may appoint technical advisory consultants and may establish committees composed of professional persons serving persons with developmental disabilities as necessary for technical assistance. The state council may call upon representatives of all agencies receiving state funds for assistance and information, and may invite persons with developmental disabilities, their parents or guardians or conservators, professionals, or members of the general public to participate on state council committees.

SEC. 3. Section 4540 of the Welfare and Institutions Code is amended to read:

4540. In order to comply with the intent and requirements of this division and the rehabilitation, comprehensive services and developmental disabilities legislation, as amended, the state council, in addition to any other responsibilities established under this division and to the extent that resources are available, shall:

(a) Be the "state planning council" responsible for developing the "California Developmental Disabilities State Plan," in accordance with requirements issued by the Secretary of Health and Human Services, monitoring and evaluating the implementation of this plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting these reports as the Secretary of Health and Human Services may reasonably request.

(b) Be the official agency responsible for planning the provision of the federal funds allotted to the state under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), which shall apportion these funds among agencies and area developmental disabilities boards in compliance with Sections 4550, 4611, and 4677.

(c) Prepare and approve a budget, for the use of amounts paid to the state to hire such staff and to obtain the services of such professional, technical, or clerical personnel consistent with state law, as the council determines to be necessary to carry out its functions. In the operation of this budget, the council shall consult with the area boards, through the Organization of Area Boards, regarding the appropriation of funds to all area boards pursuant to subdivision (b).

(d) Evaluate and issue public reports on the programs identified in the state plan.

(e) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities to include, but not be limited to, the State Department of Education, the Department of Rehabilitation, and the State Department of Developmental Services. This review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(f) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of the provisions of this division of the Welfare and Institutions Code to the Governor and the Legislature.

(g) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of the provisions of this division.

(h) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(i) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(j) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(k) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. These investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the financial

management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

SEC. 4. Section 4550 of the Welfare and Institutions Code is amended to read:

4550. The state council's operating costs shall include honoraria and actual and necessary expenses for council members, and administrative, professional, and secretarial support services. Federal developmental disability funds received by the state under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), shall be allotted in any one year for these operating costs. Each member of the state council shall receive one hundred dollars ($100) per day for each full day of work performed directly related to council business, not to exceed 50 days in any fiscal year, and shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties under this division.

SEC. 5. Section 4551 of the Welfare and Institutions Code is amended to read:

4551. Within the limit of funds allotted for these purposes, the state council chairperson, with the concurrence of a majority of the state council, shall appoint an executive director. The Governor, upon the recommendation of the executive director, shall appoint not more than two staff persons. All other state council employees that the state council may require shall be appointed by the executive director, with the approval of the state council.

The executive director shall be paid a salary which is comparable to the director of other state boards and commissions with similar responsibilities. The executive director appointed by the state council and not more than two staff persons appointed by the Governor shall be exempt from civil service.

SEC. 6. Section 4552 of the Welfare and Institutions Code is amended to read:

4552. The state council may contract for additional technical assistance with any public or private agency or individual to carry out planning, monitoring, evaluation, and other responsibilities under this division. In order to comply with federal Public Law 94-103, as amended, (42 U.S.C. Sec. 6000 et seq.) regulations, all personnel employed by the state council shall be solely responsible, organizationally and administratively, to the state council. The state council shall have responsibility for the selection, hiring, and supervision of all such personnel.

SEC. 7. Section 4561 of the Welfare and Institutions Code is amended to read:

4561. In order to integrate all relevant state planning and budgeting, and in order to comply with federal requirements, a California Developmental Disabilities State Plan shall be prepared by the state council not less often than once every three years, and shall be reviewed and revised, as necessary, on an annual basis. All references in this part to "state plan" shall be references to the California Developmental Disabilities State Plan.

The state plan shall include, but not be limited to, all of the following parts:

(a) A part describing the specific objectives to be achieved under the plan and a listing of the programs, activities, and resources to be used to meet these objectives.

(b) A part designating the nonfederal share that will be required in carrying out each objective and program.

(c) A part describing:

(1) The extent and scope of services being provided or to be provided, to persons with developmental disabilities under any other state plans or federally assisted state programs that the state conducts and in which persons with developmental disabilities are eligible to participate.

(2) How funds allotted to the state under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), will be used to complement and augment rather than duplicate or replace services for persons with developmental disabilities who are eligible for federal assistance under any state program to which paragraph (1) is applicable.

(d) A part assessing and describing the extent and scope of the federal and state priority service areas which are addressed or will be addressed under the plan.

(e) A part examining the provision, and the need for the provision, of the federal and state priority areas, consistent with Public Law 94-103 as amended (42 U.S.C. Sec. 6000 et seq.).

(f) A part describing the methods to be used for the periodic evaluation of the plan's effectiveness in meeting the objectives described in subdivision (a).

(g) A part containing the review and revision of the comprehensive statewide plan to ensure the existence of appropriate planning, financial support, and coordination, and otherwise appropriately address on a statewide and comprehensive basis, urgent needs for the provision of services for persons with developmental disabilities and the families of these persons.

In its revision, the plan shall include, at a minimum, all of the following:

(1) An analysis of any priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments.

(2) An analysis of criteria for eligibility for services including, specialized services and special adaptation of generic services provided by agencies within the state, that may be causing persons with developmental disabilities to be excluded from these services.

(3) An analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities.

(4) An analysis of existing and projected fiscal resources.

(5) An analysis of any other issues identified by the State Planning Council.

(6) The formulation of objectives in both policy reform and service demonstration to address the issues described in paragraphs (1) to (5), inclusive, for all subpopulations of persons with developmental disabilities which may be identified by the state council.

(h) A part describing the amount of federal funds from Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), that shall be allotted to the state council, area boards, and state and nonstate agencies for services, administration, planning, advocacy, coordination and other approved purposes as defined in federal law and regulations.

SEC. 8. Section 4565 of the Welfare and Institutions Code is amended to read:

4565. The state plan shall be given to the Governor, the Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, the Legislature, and to the chairpersons of all area boards for review and comment prior to its submission by the chairperson of the state council to the Secretary of Health and Human Services.

Copies of the state plan shall be provided, no later than November 1 of each year, to the Director of Finance and to the Legislature for guidance in the development of the Governor's Budget and legislative review of the budget, and for guidance in other legislation pertaining to programs for persons with developmental disabilities.

SEC. 9. Section 4566 of the Welfare and Institutions Code is amended to read:

4566. The state plan shall, in addition to the requirements established herein, comply in substance and format with requests of the Secretary of Health and Human Services.

SEC. 10. Section 4567 of the Welfare and Institutions Code is amended to read:

4567. All state agencies shall cooperate with the reasonable requests of the state council by providing information to the state council in the preparation of the state plan. Any expenditures incurred by state agencies in providing this assistance to the state council shall be identified in the state plan and in the state agency's annual budget. These expenditures may be funded in whole or in part by state funds appropriated as the required state share of the developmental disabilities program, or by federal funds from Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), or both, when the state council allots funds for these purposes in the state plan.

SEC. 11. Section 4568 of the Welfare and Institutions Code is amended to read:

4568. In no event shall the state council allot federal funds from Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.) to state agencies to replace state funds currently allocated to such agencies for the purpose of planning programs for persons with developmental disabilities.

SEC. 12. Section 4592 of the Welfare and Institutions Code is amended to read:

4592. Area boards shall encourage and assist in the establishment of independent citizen advocacy organizations that provide practical personal services to individuals with developmental disabilities. These citizen advocacy organizations shall be established for the purpose of recruiting, training, and assigning volunteers to work with individuals with developmental disabilities to assist them in using community services and participating in community activities.

Area boards shall recommend to the state council independent citizen advocacy organizations that shall be considered for federal funding under the provisions of Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.).

SEC. 13. Section 4611 of the Welfare and Institutions Code is amended to read:

4611. Each year each area board shall present for consideration by the state council a proposal for funds to support the activities of the area board. The state council shall review all area board proposals and shall include in the state plan the amount of federal funds under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.) that shall be allotted to each area board.

The allotment of federal Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.), federal developmental disability funds, in the state plan, shall include an allotment to all area boards. Nothing in this section shall prevent the appropriation of additional funds to area boards from the General Fund.

Area boards may receive grants of funds in addition to an allocation of state funds or federal funds under Public Law 94-103, as amended (42 U.S.C. Sec. 6000 et seq.) as authorized under this division. These funds shall be used only for purposes of extending the area boards' activities as authorized in this division.

CHAPTER 1012

An act to add Sections 317.3 and 317.5 to the Health and Safety Code, relating to health.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 317.3 is added to the Health and Safety Code, to read:

317.3. (a) Except as provided in subdivision (c), if any amount is due and payable and unpaid as a result of an overpayment to a vendor or local agency established under this article which is identified through an audit or examination conducted by or on behalf of the director and the state department has issued an audit or examination finding, or an administrative decision resulting from

an administrative appeal of the audit or examination finding which has become final, the director may file in the office of the County Clerk of Sacramento County and with the county clerk of the county in which the vendor has his or her principal place of business, a certificate containing the following:

(1) The amount due and owing and unpaid plus the applicable interest at a rate equal to the monthly average of the rate received on investments in the Pooled Money Investment Fund commencing on the date that an audit or examination finding, made pursuant to Section 316.5 is mailed to the vendor or local agency.

(2) A statement that the director has complied with all the provisions of this article prior to the filing of the certificate.

(3) A request that judgment be entered against the vendor or local agency in the amount set forth in the certificate.

The county clerk immediately upon the filing of the certificate, shall enter a judgment for the State of California against the vendor or local agency in the amount set forth in the certificate.

Notwithstanding any provision of law to the contrary, the Special Supplemental Food Program for Women, Infants, and Children shall pay the normal fee charged by the county for the certificate of judgment.

Nothing in this subdivision shall prevent the director from using any other means available in law to recover amounts due and owing and unpaid from the vendor or local agency.

(b) The dates when the state department may file the certificate and seek judgment from the county clerk, as provided in subdivision (a), depends on whether the audit finding is appealed by the vendor or local agency.

(1) If the audit finding or lower level administrative decision is not appealed, the state department may file the certificate the day after the end of the appeal period or anytime thereafter, but not later than three years after the payment became due and owing.

(2) If the audit finding or lower level administrative decision is appealed to the director, the state department may file the certificate no earlier than 90 days after the issuance of the final decision by the director, but no later than three years after the issuance of the final decision.

(c) If the vendor seeks judicial review of the final decision of the director pursuant to Section 1094.5 of the Code of Civil Procedure, and notice of the action is properly served on the director within 90 days of the issuance of the final decision, the state department shall not file any certificate as provided in subdivision (a).

If the vendor does not seek judicial review of the final decision of the director or does not properly serve notice within 90 days from the date of the final decision of the director, the state department may file the certificate and obtain judgment pursuant to subdivision (a).

SEC. 2. Section 317.5 is added to the Health and Safety Code, to read:

317.5. An abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 317 or a copy thereof may be recorded with the county recorder of any county. From the time of recording, the judgment shall constitute a lien upon all real or personal property owned by the vendor at the time, or which the vendor may afterwards, but before the lien expires, acquire. The lien shall have the force, effect, and priority of a judgment lien and shall continue for 10 years from the time of recording of the abstract of judgment obtained pursuant to subdivisions (a) and (b) of Section 317 unless sooner released or otherwise discharged.

The lien may, within 10 years from the date of recording of the abstract of judgment or within 10 years from the date of the last extension of the lien in the manner herein provided, be extended by recording a new abstract in the office of the county recorder of any county. From the date of the recording the lien shall be extended for 10 years unless sooner released or otherwise discharged.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1013

An act to add Section 2558.3 to the Education Code, and to amend Section 20334 of, and to add Sections 20365 and 20750.98 to, the Government Code, relating to public retirement.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 2558.3 is added to the Education Code, to read:

2558.3. Unless the Budget Act specifically states otherwise, whenever the Budget Act requires the county superintendent to reduce revenue limits to reflect decreased employer contributions to the Public Employee's Retirement System, in addition to any other exclusions specified in the Budget Act, the calculation of the reduction shall exclude any increased contribution imposed pursuant to Section 20750.98 of the Government Code.

SEC. 2. Section 20334 of the Government Code is amended to read:

20334. An employee serving on a part-time basis is excluded from this system unless:

(a) He or she is a member at the time he or she renders part-time service.

(b) His or her position requires service for at least an average of 20 hours a week, or requires service which is equivalent to at least an average of 20 hours a week, and he or she is not excluded pursuant to Section 20336, unless he or she elects membership pursuant to Section 20365.

(c) He or she is a member of the Board of Prison Terms, the State Personnel Board, or the Air Resources Board and elects to become a member of this system pursuant to Section 20360.

(d) He or she is participating in partial service retirement, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(e) He or she is included by specific provision of the board relating to the exclusion of part-time employees.

SEC. 3. Section 20365 is added to the Government Code, to read:

20365. A county superintendent of schools, a school district, a community college district or a contracting agency, whose respective resolution or contract contains an election to be subject to this section, may offer to its part-time employees whose service is less than the minimum service prescribed by subdivision (b) of Section 20334 the option to elect at any time to become a member by filing an election in writing with the board to become a member. He or she may make contributions to this system in the amount which he or she would have contributed had he or she not been so excluded, plus an amount equal to the interest, through the completion of his or her payment, which would have been credited to those contributions had he or she not been so excluded. Payment shall be in a lump sum or by installment payments over the period and subject to the minimum payments as may be prescribed by regulations of the board. An election by a county superintendent of schools, a school district, or a community college district to be subject to this section shall subject all of its employees whose service is less than the minimum service prescribed by subdivision (b) of Section 20334 to mandatory social security coverage but shall not, in and of itself, affect any other county superintendent of schools, school district, or community college district with respect to any social security coverage of employees of the other county superintendent of schools, school district, or community college district.

If he or she exercises the option: (a) he or she shall receive credit for past service which was less than the minimum service prescribed by subdivision (b) of Section 20334 in the same manner as if he or she had not been excluded, and (b) his or her rate of contribution shall be based on the nearest age at the time he or she first was excluded.

This section shall not apply to those part-time employees of any contracting agency nor to any contracting agency unless and until

the contracting agency elects to be subject to this section by amendment to its contract with the board made pursuant to Section 20461.5 or by express provision in its contract with the board.

This section shall not apply to those part-time employees of any county superintendent of schools or school district or community college district nor to any county superintendent of schools or school district or community college district unless and until the county superintendent of schools, the school district, or community college district, elects to be subject to this section by adopting a resolution to that effect and transmitting that resolution through the county superintendent of schools to the board. Notwithstanding any specified effective date in a resolution, the resolution shall not become effective until it is received by the Public Employees' Retirement System.

SEC. 4. Section 20750.98 is added to the Government Code, to read:

20750.98. (a) The contribution to the retirement fund of a school employer or a contracting agency electing to be subject to Section 20365 with respect to school members and local members making payments pursuant to Section 20365 for past service which was less than the minimum prescribed by subdivision (b) of Section 20334 because of service of less than 20 hours a week, prior to the enactment of Section 20365 shall be increased by an amount or a percentage of the compensation paid to those members determined by the board.

(b) The additional contribution imposed pursuant to subdivision (a) shall include an amount to pay the reasonable administrative expenses incurred by the board in establishing the additional contribution required in subdivision (a).

SEC. 5. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 1014

An act to amend Sections 11701, 11734, 11754, and 11755 of, and to add Article 7.5 (commencing with Section 11760) to Chapter 7 of Part 1 of Division 3 of Title 2 of, the Government Code, relating to information technology, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 11701 of the Government Code is amended to read:

11701. It is the intent of the Legislature:

(a) That there be specific objectives and definitive policies to guide the development of information technology systems, procedures, and techniques within the governmental sector.

(b) That policies and plans developed within state government recognize fully the interrelationships and impact of state activities on local governments and on agencies of the federal government, and that these policies and plans represent the best interests of all of California's citizens.

(c) That there be plans for enhancing the use of information technology within state government, encompassing both short-term and long-range needs, and that these plans be continually updated.

(d) That the plans provide for optimum utilization of information technology equipment; maximum practical integration of information technology systems; the establishment of service centers, as required, to provide data processing services to units of state government as needed; adherence to standards ensuring appropriate compatibility of systems and interchange of data and information; and proper management controls to ensure the most efficient, effective, and economical use of the state's resources for information technology.

(e) That appropriate criteria be developed for cost sharing and evaluation of effectiveness for the utilization of information technology systems.

(f) That such goals as one-time collection of data, minimum duplication of records, and maximum availability of information at lowest overall cost will not jeopardize or compromise the confidentiality of information as provided by statute or the protection of the right of individual privacy as established by law.

(g) That state government participate with private industry, and federal, state, and local governments in demonstrating or developing advanced information technologies which offer the potential of improving the efficiency and reducing the cost of state operation.

SEC. 2. Section 11734 of the Government Code is amended to

read:

11734. The director shall do all of the following:

(a) Establish and maintain criteria for determining which data center is to provide which data-processing service to each state agency.

(b) Establish policies for the development, operation, maintenance and performance management of data-processing information systems, including, but not limited to, equipment, software, and data communications.

(c) Establish and maintain criteria to be followed by state government in participating with private industry, and federal, state, and local government in demonstrating or developing advanced information technologies.

(d) Establish and maintain the criteria to be followed by data processing in each state agency in providing confidentiality and security of data, and the security of data-processing facilities and equipment.

(e) Establish policies and guidelines for the exchange of data between data centers by intercoupling or telecommunications to ensure that exchanges do not jeopardize data security and confidentiality.

(f) Establish procedures to allow the Legislative Analyst to make an analysis of programs and budgets and the Auditor General to conduct audits utilizing data in the state data processing information systems or as products of state data processing information systems. Information shall not be provided to the Legislative Analyst or the Auditor General if specifically prohibited by federal law.

These policies and criteria shall be published and maintained in the State Administrative Manual.

SEC. 3. Section 11754 of the Government Code is amended to read:

11754. There is in the State Treasury, the Stephen P. Teale Data Center Revolving Fund, hereafter referred to as the "TDC Fund," which fund is continuously appropriated for the purposes of this chapter, and the fund shall be continuously utilized without regard to fiscal years for the payment of expenses incurred by the Stephen P. Teale Data Center. Moneys available in the TDC Fund, not to exceed a total of 1 percent of the Stephen P. Teale Data Center's current fiscal year budget, may be allocated by the director to projects which demonstrate or develop advanced information technologies as solutions to information processing problems.

The expenditures for these allocations shall be provided for out of the unencumbered surplus of the TDC Fund. There shall be no expenditure in the event that there is no unencumbered surplus in any particular fiscal year.

The TDC Fund shall consist of the following:

(a) All moneys appropriated by the Legislature for the fund in accordance with law.

(b) All moneys received into the State Treasury from any source

whatever in payment of electronic data processing services rendered by the Stephen P. Teale Data Center or for other services rendered by the Stephen P. Teale Data Center.

(c) All moneys from outstanding balances of prior fiscal years which have not reverted to the General Fund.

(d) The balance remaining in the TDC Fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.

If the balance remaining in the TDC Fund at the end of any fiscal year exceeds 25 percent of the Stephen P. Teale Data Center's current fiscal year budget, the billing rates for services rendered shall be adjusted downward for the following fiscal year.

SEC. 4. Section 11755 of the Government Code is amended to read:

11755. There is in the State Treasury, the Health and Welfare Agency Data Center Revolving Fund, hereafter referred to as the "HWDC Fund," which fund is continuously appropriated for the purposes of this chapter. Moneys in the fund shall be continuously utilized without regard to fiscal years for the payment of expenses incurred by the Health and Welfare Agency Data Center. Moneys available in the HWDC Fund, not to exceed a total of 1 percent of the Health and Welfare Agency Data Center's current fiscal year budget, may be allocated by the director to projects which demonstrate or develop advanced information technologies as solutions to information processing problems.

The expenditures for these allocations shall be provided for out of the unencumbered surplus of the HWDC Fund. There shall be no expenditure in the event that there is no unencumbered surplus in any particular fiscal year.

The HWDC Fund shall consist of the following:

(a) All moneys appropriated by the Legislature for the fund in accordance with law.

(b) All moneys received into the State Treasury from any source whatever in payment of electronic data processing services rendered by the Health and Welfare Agency Data Center or for other services rendered by the Health and Welfare Agency Data Center.

(c) All moneys from outstanding balances of prior fiscal years which have not reverted to the General Fund.

(d) The balance remaining in the HWDC Fund at the end of any fiscal year whether the moneys received are from an appropriation or from payments for services rendered.

If the balance remaining in the HWDC Fund at the end of any fiscal year exceeds 25 percent of the Health and Welfare Agency Data Center's current fiscal year budget, the excess amount shall be used to reduce the billing rates for services rendered during the following fiscal year.

SEC. 5. Article 7.5 (commencing with Section 11760) is added to Chapter 7 of Part 1 of Division 3 of Title 2 of the Government Code, to read:

Article 7.5. Costs and Benefits Review

11760. The Legislative Analyst shall include, with the analysis of the 1991–92 Budget Bill, a review of the costs and benefits to the state which result from the changes made in Sections 11701, 11734, 11754, and 11755 by the enactment of Senate Bill 1869 of the 1987–88 Regular Session of the Legislature.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act contemplates joint projects between the Stephen P. Teale Data Center and the Health and Welfare Data Center and private business firms. Many firms operate on a calendar fiscal year and consequently plan their upcoming fiscal year during the summer months.

Additionally, state agencies plan their budgets for the following fiscal year in the month of September, and both TDC and HWDC have the most staff available to work on projects of this type during October and November.

In order to begin planning and work on projects immediately to prevent the loss of as much as a year of time of the state's participation in these constantly evolving technological developments, it is essential that this act take immediate effect.

CHAPTER 1015

An act to add Section 10436 to the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 10436 is added to the Insurance Code, to read:

10436. An admitted life insurer may issue a rider to a policy of life insurance for the purpose of providing coverage for long-term care, if the rider has been reviewed and approved, in a manner similar to that of other long-term care insurance products, by the commissioner.

CHAPTER 1016

An act to amend Sections 4525, 4526, 4527, 4528, and 4529 of the Government Code, relating to public contracts.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 4525 of the Government Code is amended to read:

4525. For purposes of this chapter, the following terms have the following meanings:

(a) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, engineering, land surveying, or construction project management.

(b) "State agency head" means the secretary, administrator, or head of a department, agency, or bureau of the State of California authorized under the State Contract Act to contract for architectural, engineering, land surveying, and construction project management services.

(c) "Local agency head" means the secretary, administrator, or head of a department, agency, or bureau of any city, county, city and county, whether general law or chartered, or any district which is authorized to contract for architectural, engineering, land surveying, and construction project management services.

(d) "Architectural, engineering, and land surveying services" includes those professional services of an architectural, engineering, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(e) "Construction project management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 for management and supervision of work performed on state construction projects.

SEC. 2. Section 4526 of the Government Code is amended to read:

4526. Notwithstanding any other provision of law, it shall be considered to be the public policy of the State of California and any political subdivision thereof that selection by a state or local agency head for professional services of private architect, engineering, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. State agency heads contracting for private architectural, professional engineering, land surveying, and

construction project management services shall adopt by regulation procedures that assure that these services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the public agencies. Furthermore, these procedures shall assure maximum participation of small business firms, as defined by the Director of General Services pursuant to Section 14837.

SEC. 3. Section 4527 of the Government Code is amended to read:

4527. In the procurement of architectural, engineering, land surveying, and construction project management services, the state agency head shall encourage firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data.

(a) When the selection is by a state agency head, statewide announcement of all projects requiring architectural, engineering, land surveying, or construction project management services shall be made by the agency head through publications of the respective professional societies. The agency head, for each proposed project, shall evaluate current statements of qualifications and performance data on file with the agency, together with those that may be submitted by other firms regarding the proposed project, and shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required services and then shall select therefrom, in order of preference, based upon criteria established and published by him or her, no less than three of the firms deemed to be the most highly qualified to provide the services required.

(b) When the selection is by a local agency head, the agency head may undertake the procedures described in subdivision (a).

SEC. 4. Section 4528 of the Government Code is amended to read:

4528. (a) When the selection is by a state agency head the following procedures shall apply:

(1) The state agency head shall negotiate a contract with the best qualified firm for architectural, engineering, land surveying, and construction project management services at compensation which the state agency head determines is fair and reasonable to the State of California or the political subdivision involved.

(2) Should the state agency head be unable to negotiate a satisfactory contract with the firm considered to be the most qualified, at a price the agency head determines to be fair and reasonable to the State of California or the political subdivision involved, negotiations with that firm shall be formally terminated. The state agency head shall then undertake negotiations with the second most qualified firm. Failing accord with the second most qualified firm, the state agency head shall terminate negotiations. The state agency head shall then undertake negotiations with the third most qualified firm.

(3) Should the state agency head be unable to negotiate a satisfactory contract with any of the selected firms, the state agency head shall select additional firms in order of their competence and qualification and continue negotiations in accordance with this chapter until an agreement is reached.

(b) When the selection is by a local agency head, the local agency head may undertake the procedures described in subdivision (a).

SEC. 5. Section 4529 of the Government Code is amended to read:

4529. This chapter shall not apply where the state or local agency head determines that the services needed are more of a technical nature and involve little professional judgment and that requiring bids would be in the public interest.

CHAPTER 1017

An act to amend Sections 708.730, 708.740, and 708.780 of the Code of Civil Procedure, and to amend Section 12419.3 of the Government Code, relating to family law.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 708.730 of the Code of Civil Procedure is amended to read:

708.730. (a) If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by this article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

(b) Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail.

(c) If the judgment is for support and related costs and money is owing and unpaid to the judgment debtor by a state agency, including, but not limited to, money owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, and the district attorney is enforcing the support

obligation pursuant to Section 11475.1 of the Welfare and Institutions Code, the claim may be submitted as follows: The district attorney may file the affidavit referred to in subdivision (a) without filing an abstract or certified copy of the judgment. In lieu thereof, the affidavit shall also state that an abstract of the judgment could be obtained. Where there is more than one judgment debtor, the district attorney may include all the judgment debtors in a single affidavit. Separate affidavits need not be submitted for each judgment debtor. The affidavit need not on its face separately identify each judgment debtor or the exact amount required to satisfy the judgment, so long as it incorporates by reference forms or other automated data transmittals, as required by the State Department of Social Services, which contain this information. Affidavits submitted pursuant to this subdivision by the district attorney shall meet the standards and procedures prescribed by the state agency to which the affidavit is submitted, except that those affidavits submitted with respect to moneys owed and unpaid to the judgment debtor as a result of a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporations Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, shall meet the standards and procedures prescribed by the Franchise Tax Board.

In serving the notice required by subdivision (b), the Director of the State Department of Social Services or his or her designee may act in lieu of the judgment creditor as to judgments enforced under this division.

(d) If the judgment is for child support and related costs and money is owing and unpaid to the judgment debtor by a state agency on a claim for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, or as a result of the judgment debtor's winnings in the California State Lottery, the judgment creditor may file with the court an abstract or a certified copy of the judgment or decree ordering the payment of child support, together with a request that the court issue a Notice of Child Support Arrearage, as provided in Section 708.780, to which any personal income tax refunds and lottery winnings owed the judgment debtor by the State of California will be subject. The request shall be accompanied by an affidavit which shall state that the judgment creditor desires the relief provided by this subdivision and shall state the exact amount then required to satisfy the judgment or decree. In addition, the affidavit shall specify the beginning and ending dates of all periods during which the arrearage for child support occurred, specify the arrearage for each month, and state that each specified arrearage has been delinquent for at least

30 days. It shall also certify that the child or children are not recipients, and during the period for which payment is requested, were not recipients, of Aid to Families with Dependent Children and there was no assignment to a state or county agency of child support and shall certify on information and belief that there is not current or past action by a district attorney pending for child support or child support enforcement on the judgment creditor's behalf.

The request shall have attached a proof of service showing that copies of the request, the affidavit, and the abstract or certified copy of the judgment or decree ordering the payment of child support have been served on the judgment debtor and the district attorney of the county in which the support judgment is entered. Service shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service.

This subdivision does not apply in any instance in which a district attorney initiated or participated as counsel in the action for child support or if child support is required to be paid through a district attorney's office.

This subdivision shall be operative only until January 1, 1994.

SEC. 1.5. Section 708.740 of the Code of Civil Procedure is amended to read:

708.740. (a) Except as provided in subdivision (e), if money is owing and unpaid to the judgment debtor by a state agency, the judgment creditor shall file the abstract or certified copy of the judgment and the affidavit with the state agency owing the money to the judgment debtor prior to the time the state agency presents the claim of the judgment debtor to the Controller. Where the affidavit is prepared under subdivision (c) of Section 708.730, the affidavit shall be filed with the State Department of Social Services, and no abstract need be filed. Filing of the affidavit with the department shall be sufficient to require the Controller to transfer the funds claimed by the judgment debtor, notwithstanding that the claim of the judgment debtor has been filed with another state agency.

(b) When presenting the claim of the judgment debtor to the Controller, the state agency shall do all of the following:

(1) Note the fact of the filing of the abstract or certified copy of the judgment and the affidavit.

(2) State the amount required to satisfy the judgment as shown by the affidavit.

(3) State any amounts advanced to the judgment debtor by the state, or owed by the judgment debtor to the state, for expenses or for any other purpose.

(c) Except as provided in subdivisions (d) and (e), to discharge the claim of the judgment debtor, the Controller shall (1) deposit with the court, by a warrant or check payable to the court, the amount due the judgment debtor (after deducting an amount sufficient to reimburse the state for any amounts advanced to the

judgment debtor or owed by the judgment debtor to the state) required to satisfy the money judgment as shown by the affidavit in full or to the greatest extent and (2) pay the balance thereof, if any, to the judgment debtor.

(d) Where an affidavit stating the existence of a judgment for support has been submitted to the State Department of Social Services, pursuant to subdivision (c) of Section 708.730, to discharge the claim of a judgment debtor, the Controller shall direct payment to the county agency designated by the district attorney in his or her affidavit.

(e) Where the judgment is for support and the money owed is for lottery winnings or a refund of overpayment of tax, penalty, interest, or interest allowable with respect to an overpayment under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, and the support obligation is not being enforced pursuant to Section 11475.1 of the Welfare and Institutions Code, the judgment creditor may file the abstract or certified copy of the judgment with the district attorney of the county in which the support judgment is entered or registered. The district attorney shall then file the claim of the judgment creditor pursuant to subdivision (c) of Section 708.730. When funds are received by the district attorney he or she shall discharge any claim of the judgment debtor by forwarding those sums to the clerk of the court pursuant to subdivision (c) of this section. Any and all notices otherwise required of a judgment creditor or the clerk of the court, and any litigation to enforce rights under this subdivision shall be the responsibility of the judgment creditor, the same as if service had been directly on the Controller without the intervention of the district attorney.

(f) Where the claim of the judgment debtor is less than ten dollars ($10) and the claim of the judgment creditor arises under an affidavit filed pursuant to subdivision (c) of Section 708.730, the Controller may disregard the claim of the judgment creditor and forward any and all sums due to the judgment debtor. In the event that there is more than one claimant for a refund, the Franchise Tax Board shall have discretion in allocating the overpayment among claimants.

(g) Should two or more district attorneys submit claims on behalf of a judgment creditor, the Controller in his or her discretion may select which claim or claims he or she shall honor.

(h) Any claims which are honored in behalf of a judgment creditor shall be considered as refunds of tax overpayments to the judgment debtor.

SEC. 2. Section 708.780 of the Code of Civil Procedure is amended to read:

708.780. (a) Filing of the abstract or certified copy of the judgment and the affidavit pursuant to this article creates a lien on the money owing and unpaid to the judgment debtor by the public entity in an amount equal to that which may properly be applied to the satisfaction of the money judgment under this article.

(b) When an affidavit is filed pursuant to subdivision (c) of

Section 708.730, it shall apply to all claims for refund from the Franchise Tax Board under the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, which the judgment debtor subsequently claims during a period one year after filing of the affidavit, or October 1 of the year following the filing of the affidavit, whichever occurs later, the same as if claims for these overpayments were filed by the judgment debtor with the appropriate state agency on the date the affidavit was filed.

(c) When a request is filed pursuant to subdivision (d) of Section 708.730 with the court, and upon order of the court, the clerk of the court shall issue a Notice of Child Support Lien Arrearage. The court shall order the clerk of the court to issue the notice 30 days after the request was filed pursuant to subdivision (d) of Section 708.730 without a hearing if no objection has been raised by the judgment debtor pursuant to this subdivision. If an objection has been raised, the notice shall not be ordered until after a hearing. The notice shall contain the name of the parent ordered to pay support and his or her social security number; the amount of the arrearage determined by the court; a statement of how the recipient may challenge the statement of arrearage; and the name, address, and social security number of the person to whom the arrearage is owed. Upon the clerk of the court issuing the Notice of Child Support Arrearage, a copy of the request, the affidavit, and the notice shall be served by the party who requested the court to issue the Notice of Child Support Arrearage upon the parent ordered to pay support and the Controller. Service may be personal, in accordance with Section 1011, or by mail, in accordance with Section 1013. Service upon the Controller shall be at the Controller's office in Sacramento.

The judgment debtor may object to the request or affidavit upon any of the following grounds: (1) there is an error in the amount of the arrearage stated in the affidavit; (2) the alleged judgment debtor is not the judgment debtor from whom the support is due; (3) the amount to be intercepted exceeds that allowable under federal law; (4) a default in payment of the support for 30 days has not occurred; or (5) other necessary factual allegations contained in the affidavit are erroneous.

Upon receipt of the Notice of Child Support Arrearage, the Controller shall take reasonable measures to deduct from any personal income tax refunds and lottery winnings owed and processed for payment to the judgment debtor and deposit with the court a warrant, subject to Sections 708.770 and 708.775, with service of a copy of the warrant upon the district attorney of the county in which the support judgment is entered, payable to the court, the amount due the judgment creditor (after deducting an amount sufficient to reimburse the state for any amounts advanced to the judgment debtor or owed by the judgment debtor to the state)

required to satisfy the money judgment as shown by the affidavit in full or to the greatest extent, and pay the balance thereof, if any, to the judgment debtor. At any hearing pursuant to Section 708.770, the judgment debtor may challenge the distribution of these funds on exemption or other grounds, including, but not limited to, an allegation that the judgment has been satisfied or that service was improper. The notice shall not apply to any money which is exempt by law from execution. The Controller shall determine the cost of enforcing the notice and may establish a notice filing fee not to exceed five dollars ($5).

Service of the Notice of Child Support Arrearage and of the request and affidavit pursuant to this subdivision creates a lien on the money owing and unpaid to the judgment debtor which shall become effective 30 days following service upon the Controller. This notice shall remain in effect for four years from the date of its issuance or until the arrearage for which the notice was issued is satisfied, whichever occurs first.

Any person who files a request with the court to issue a Notice of Child Support Arrearage pursuant to subdivision (d) of Section 708.730 shall notify the court and the Controller of any satisfaction of the arrearage after the Notice of Child Support Arrearage has been issued by the clerk of the court. The notice to the court and the Controller shall be filed with the court and the Controller and served upon the district attorney of the county in which the support judgment is entered within 30 days of the satisfaction or discharge and shall show a partial or full satisfaction of the arrearage or any other resolution of the arrearage.

Upon filing and service, the Notice of Child Support Arrearage shall be of no force and effect.

This subdivision shall be operative only until January 1, 1994.

SEC. 3. Section 12419.3 of the Government Code is amended to read:

12419.3. (a) The Controller shall, until December 31, 1990, offset delinquent accounts against personal income tax refunds which have been certified by the Franchise Tax Board, in the following priority:

(1) The nonpayment of child support accounts enforced by a district attorney.

(2) The nonpayment of child support accounts enforced by someone other than a district attorney.

(3) The benefit overpayment accounts administered by the Employment Development Department if no signed reimbursement agreement exists, or if two consecutive payments on a reimbursement agreement are delinquent as of September 30 of the taxable year.

(4) The other offset accounts in the priority determined by the Controller.

(b) The Controller, the Franchise Tax Board, and the department shall annually report to the Assembly Committees on Finance and Insurance and Revenue and Taxation and the Senate Committees on

Industrial Relations and Revenue and Taxation on the progress of offsets in reducing outstanding benefit overpayment accounts, and the programs for multiple offsets with adjustable priorities and cross-matching capabilities.

The first report shall be submitted prior to July 1, 1985, covering the 1984 taxable year and annually thereafter on July 1 covering the previous taxable year. The last report shall be due on July 1, 1989.

SEC. 4. The Judicial Council shall, in cooperation with the Controller and the Franchise Tax Board, develop a form entitled "Notice of Child Support Arrearage," forms for an order to impose a lien on sums payable by the State of California on personal income tax refunds and lottery winnings, as provided for in this act, and any other forms that it shall deem necessary for the implementation of Section 1 of this act.

SEC. 5. Sections 1, 2, and 3 of this act shall be operative on July 1, 1989.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1018

An act to amend Section 704.7 of the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 704.7 of the Insurance Code is amended to read:

704.7. The commissioner, in any proceeding under Section 704 for any of the violations specified in that section, may, by an alternative order, permit the holder of that certificate of authority to elect in writing to pay a specified money penalty, within a specified time, in lieu of the suspension of its certificate of authority. If the holder so elects, the sum of money specified shall be paid to the commissioner for the use of the State of California. The sum specified shall not exceed fifty-five thousand dollars ($55,000). If the holder so electing fails to pay the specified sum within the specified time the commissioner shall, unless his or her order be lawfully stayed,

forthwith put in effect the alternative specified in his or her order.

All moneys received by the commissioner pursuant to this section shall, when appropriated for that purpose by the Legislature, be available for expenditure by the commissioner in accordance with law in administration and enforcement of this code and other insurance laws.

The authority vested in the commissioner by this section shall be additional to and not in lieu of any other authority to enforce any penalties, fines or forfeitures, denials, suspensions, restrictions, or revocations of certificates of authority otherwise authorized by law.

CHAPTER 1019

An act to amend Sections 7544.6 and 7564.2 of, and to add Section 7544.7 to, the Business and Professions Code, relating to security guards, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 7544.6 of the Business and Professions Code is amended to read:

7544.6. No uniformed employee of a private patrol operator shall do any of the following:

(a) Fail to carry on his or her person, while on duty, a valid and current security guard registration card or a copy of a valid application for such a registration card.

(b) Fail to carry on his or her person a valid and current firearms permit when carrying a firearm on duty.

(c) Carry or use a firearm unless he or she possesses a valid and current firearms permit from the department and evidence of proficiency in the use of the weapon carried. Proficiency may be evidenced by a certificate from a firearm training facility approved by the director certifying that such person is proficient in the use of that specified caliber of firearm.

(d) Fail to report to his or her employer within 24 hours of the incident the circumstances surrounding any incident involving the discharge of any firearm in which he or she is involved while acting within the course and scope of his or her employment.

SEC. 2. Section 7544.7 is added to the Business and Professions Code, to read:

7544.7. Any person registered as a security guard or patrolperson shall deliver to the director a written report describing fully the circumstances surrounding any incident involving the discharge of any firearm in which he or she was involved while acting within the course and scope of his or her employment, within seven days after

the incident. The report shall be made on a form prescribed by the director which shall include, but not be limited to, the following:

(a) The name, address, and date of birth of the guard or patrolperson.

(b) The registration number of the guard or patrolperson.

(c) The firearm permit number and baton permit number of the guard or patrolperson, if applicable.

(d) The name of the employer of the person.

(e) The description of any injuries and damages that occurred.

(f) The identity of all participants in the incident.

(g) Whether a police investigation was conducted relating to the incident.

(h) The date and location of the incident. Any report may be investigated by the director to determine if any disciplinary action is necessary.

A copy of the report delivered to the director pursuant to this section shall also be delivered within seven days of the incident to the local police or sheriff's department which has jurisdiction over the geographic area where the incident occurred.

SEC. 3. Section 7564.2 of the Business and Professions Code is amended to read:

7564.2. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (a) and (b) of Section 7544.6; ten dollars ($10) per violation.

(b) Violation of subdivision (c) of Section 7544.6; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(c) Violation of Section 7544.7; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1020

An act relating to the Youth Authority, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Department of the Youth Authority is authorized to perform various advance planning activities for an 1800-bed Southern California Youth Center in Kern County. These activities include architectural programming, master planning, site studies and evaluations, and environmental reports.

SEC. 2. The sum of two million nine hundred fifty-six thousand dollars ($2,956,000) is hereby appropriated from the 1986 Prison Construction Fund to the Department of the Youth Authority for the following purposes:

(a) The sum of six hundred fifty-eight thousand dollars ($658,000) for capital outlay for the Southern California Youth Center in Kern County for site studies and evaluations, environmental reports, architectural programming, and master planning.

(b) The sum of one million six hundred eighty-four thousand dollars ($1,684,000) for the construction of the infirmary renovation at the Preston School of Industry.

(c) The sum of two hundred forty-two thousand dollars ($242,000) for the construction of the visitor's security entrance at the Youth Training School.

(d) The sum of three hundred seventy-two thousand dollars ($372,000) for the construction of the visiting room expansion at the Ventura School.

SEC. 2.5. The unencumbered balance of the funds appropriated by paragraph (1) of subdivision (b) of Section 13 of Chapter 1056 of the Statutes of 1987 shall revert to the unappropriated surplus of the 1986 Prison Construction Fund.

SEC. 3. The Department of the Youth Authority shall provide the Legislature the results of the environmental impact reports and the design options for the proposed facility described in Section 1 prior to seeking additional funding for this project. The environmental impact reports shall include the proposed new prison construction sites in Kern County.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Facilities of the Youth Authority are severely overcrowded, and this bill is necessary to expedite the construction of facilities that

would alleviate existing critically crowded facilities.

CHAPTER 1021

An act to amend Section 35401 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 35401 of the Vehicle Code is amended to read:

35401. (a) Except as provided in subdivisions (b) and (c), no combination of vehicles coupled together, including any attachments, shall exceed a total length of 65 feet.

(b) A combination of vehicles coupled together, including any attachments, which consists of a truck tractor, a semitrailer, and a trailer, shall not exceed a total length of 75 feet, provided that the length of neither the semitrailer nor the trailer in the combination of vehicles exceeds 28 feet 6 inches.

(c) Any city or county may, by ordinance, prohibit a combination of vehicles of a total length in excess of 60 feet upon highways under its respective jurisdiction. The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(d) Any city or county, upon a determination that a highway or portion of highway under its jurisdiction cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, may, by ordinance, establish lesser distances consistent with the maximum distances that the highway or highway portion can sustain, except that a city or county shall not restrict the kingpin to rearmost axle measurement to less than 38 feet on those highways or highway portions. Any city or county considering the adoption of an ordinance shall consider, but not be limited to consideration of, all of the following:

(1) A comparison of the operating characteristics of the vehicles to be limited as compared to operating characteristics of other vehicles regulated by this code.

(2) Actual traffic volume.

(3) Frequency of accidents.

(4) Any other relevant data.

In addition, the city or county may appoint an advisory committee consisting of local representatives of those interests which are likely to be affected and shall consider the recommendations of the

advisory committee in adopting the ordinance. The ordinance shall not be effective until appropriate signs are erected indicating the highways or highway portions affected by the ordinance.

This subdivision shall only become operative upon the adoption of an enabling ordinance by a city or county.

(e) Whenever in the judgment of the Department of Transportation, any state highway cannot, in consideration of public safety, sustain the operation of trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400, the director, in consultation with the Department of the California Highway Patrol, shall compile data on total traffic volume, frequency of use by vehicles covered by this subdivision, accidents involving these vehicles, and other relevant data to assess whether these vehicles are a threat to public safety and should be excluded from the highway or highway segment. The study, containing the conclusions and recommendations of the director, shall be submitted to the Secretary of the Business, Transportation and Housing Agency. Unless otherwise notified by the secretary, the director shall hold public hearings in accordance with the procedures set forth in Article 3 (commencing with Section 35650) of Chapter 5 for the purpose of determining the maximum kingpin to rear axle length, which shall be not less than 38 feet, that the highway or highway segment can sustain without unreasonable threat to the safety of the public. Upon the basis of the findings, the Director of Transportation shall declare in writing the maximum kingpin to rear axle lengths which can be maintained with safety upon the highway. Following the declaration of maximum lengths as provided by this subdivision, the Department of Transportation shall erect suitable signs at each end of the affected portion of the highway and at any other points that the Department of Transportation determines to be necessary to give adequate notice of the length limits.

The Department of Transportation, in consultation with the Department of the California Highway Patrol, shall compile traffic volume, geometric, and other relevant data, to assess the maximum kingpin to rearmost axle distance of vehicle combinations appropriate for those state highways or portion of highways, affected by this section, that cannot safely accommodate trailers or semitrailers of the maximum kingpin to rearmost axle distances permitted under Section 35400. On or before January 1, 1989, the department shall erect suitable signs appropriately restricting truck travel on those highways, or portions of highways, and report its findings and recommendations to the Legislature.

CHAPTER 1022

An act to add Section 905.5 to the Government Code, relating to governmental liability.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 905.5 is added to the Government Code, to read:

905.5. A school district, its officers, directors, or employees shall have no civil liability in any civil action for injury, disease, death, or economic loss arising out of exposure on or after January 1, 1989, to asbestos contained in buildings owned, leased, or otherwise used by a school district, except upon proof that the injury, disease, death, or economic loss was caused by the negligence of the school district, its officers, directors, or employees. Notwithstanding the provisions of Section 815.6 of the Government Code and Section 669 of the Evidence Code, no presumption of negligence shall apply to any action under this section. This section applies only to actions against school districts, and shall not apply to any other action, including, but not limited to, actions against a manufacturer, contractor, or any person who makes, sells, distributes, furnishes, or installs asbestos-containing materials. This section shall not affect, alter, or otherwise modify the law pertaining to workers' compensation claims. This section shall not affect the right of a school district, its officers, directors, or employees to seek indemnification.

CHAPTER 1023

An act to amend Sections 18165 and 18510 of the Financial Code, relating to industrial loan companies.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 18165 of the Financial Code is amended to read:

18165. An industrial loan company shall not transact business or make any loan provided for by this division at any other place of business than that designated in its certificate of authorization issued pursuant to Section 18101 or 18149, without having obtained the prior written approval of the commissioner. An industrial loan company may solicit and make loans and acquire obligations at a place of

business in California other than designated in its certificate of authorization upon written approval of the commissioner, without obtaining a certificate of authorization to conduct business at a branch office pursuant to Article 4 (commencing with Section 18145). The commissioner may by rule, order, or regulation permit loans to be made or entered into at places other than designated by an industrial loan company in its certificate of authorization if such loans can be so made consistent with the purposes of the Industrial Loan Law.

SEC. 2. Section 18510 of the Financial Code is amended to read:

18510. The Board of Directors of Guaranty Corporation shall be composed of 11 members, four of which shall be public members; and commencing July 1, 1989, the board shall be composed of five members, at least two of which shall be public members. The five members shall be appointed by the Commissioner of Corporations. The commissioner shall consult with the President of Thrift Guaranty Corporation before making an appointment. Public members shall not be affiliated with any company or affiliate of any company or employed by any state agency. A public member shall not be a relative of any officer or director of any company or its affiliates.

CHAPTER 1024

An act to amend Section 602 of the Penal Code, relating to real property.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 602 of the Penal Code is amended to read:

602. Every person who willfully commits a trespass by any of the following acts is guilty of a misdemeanor:

(a) Cutting down, destroying, or injuring any kind of wood or timber standing or growing upon the lands of another.

(b) Carrying away any kind of wood or timber lying on those lands.

(c) Maliciously injuring or severing from the freehold of another anything attached to it, or its produce.

(d) Digging, taking, or carrying away from any lot situated within the limits of any incorporated city, without the license of the owner or legal occupant, any earth, soil, or stone.

(e) Digging, taking, or carrying away from land in any city or town laid down on the map or plan of the city, or otherwise recognized or established as a street, alley, avenue, or park, without the license of the proper authorities, any earth, soil, or stone.

(f) Maliciously tearing down, damaging, mutilating, or destroying any sign, signboard, or notice placed upon, or affixed to, any property belonging to the state, or to any city, county, city and county, town or village, or upon any property of any person, by the state or by an automobile association, which sign, signboard or notice is intended to indicate or designate a road, or a highway, or is intended to direct travelers from one point to another, or relates to fires, fire control, or any other matter involving the protection of the property, or putting up, affixing, fastening, printing, or painting upon any property belonging to the state, or to any city, county, town, or village, or dedicated to the public, or upon any property of any person, without license from the owner, any notice, advertisement, or designation of, or any name for any commodity, whether for sale or otherwise, or any picture, sign, or device intended to call attention to it.

(g) Entering upon any lands owned by any other person whereon oysters or other shellfish are planted or growing; or injuring, gathering, or carrying away any oysters or other shellfish planted, growing, or on any such lands, whether covered by water or not, without the license of the owner or legal occupant; or destroying or removing, or causing to be removed or destroyed, any stakes, marks, fences, or signs intended to designate the boundaries and limits of any such lands.

(h) Willfully opening, tearing down, or otherwise destroying any fence on the enclosed land of another, or opening any gate, bar, or fence of another and willfully leaving it open without the written permission of the owner, or maliciously tearing down, mutilating, or destroying any sign, signboard, or other notice forbidding shooting on private property.

(i) Building fires upon any lands owned by another where signs forbidding trespass are displayed at intervals not greater than one mile along the exterior boundaries and at all roads and trails entering the lands, without first having obtained written permission from the owner of the lands or the owner's agent, or the person in lawful possession.

(j) Entering any lands, whether unenclosed or enclosed by fence, for the purpose of injuring any property or property rights or with the intention of interfering with, obstructing, or injuring any lawful business or occupation carried on by the owner of the land, the owner's agent or by the person in lawful possession.

(k) Entering any lands under cultivation or enclosed by fence, belonging to, or occupied by, another, or entering upon uncultivated or unenclosed lands where signs forbidding trespass are displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the lands without the written permission of the owner of the land, the owner's agent or of the person in lawful possession, and

(l) Refusing or failing to leave the lands immediately upon being requested by the owner of the land, the owner's agent or by the

person in lawful possession to leave the lands, or

(2) Tearing down, mutilating, or destroying any sign, signboard, or notice forbidding trespass or hunting on the lands, or

(3) Removing, injuring, unlocking, or tampering with any lock on any gate on or leading into the lands, or

(4) Discharging any firearm.

(*l*) Entering and occupying real property or structures of any kind without the consent of the owner, the owner's agent, or the person in lawful possession.

(m) Driving any vehicle, as defined in Section 670 of the Vehicle Code, upon real property belonging to or lawfully occupied by another and known not to be open to the general public, without the consent of the owner, the owner's agent, or the person in lawful possession.

(n) Refusing or failing to leave land, real property, or structures belonging to or lawfully occupied by another and not open to the general public, upon being requested to leave by (1) a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, or (2) the owner, the owner's agent, or the person in lawful possession. The owner, the owner's agent, or the person in lawful possession shall make a separate request to the peace officer on each occasion when the peace officer's assistance in dealing with a trespass is requested. However, a single request for a peace officer's assistance may be made to cover a limited period of time not to exceed 30 days and identified by specific dates, during which there is a fire hazard or the owner, owner's agent or person in lawful possession is absent from the premises or property. In addition, a single request for a peace officer's assistance may be made for a period not to exceed six months when the premises or property is closed to the public and posted as being closed. However, this subdivision shall not be applicable to persons engaged in lawful labor union activities which are permitted to be carried out on the property by the California Agricultural Labor Relations Act, Part 3.5 (commencing with Section 1140) of Division 2 of the Labor Code, or by the National Labor Relations Act. For purposes of this section, land, real property, or structures owned or operated by any housing authority for tenants as defined under Section 34213.5 of the Health and Safety Code constitutes property not open to the general public; however, this subdivision shall not apply to persons on the premises who are engaging in activities protected by the State or Federal Constitution, or to persons who are on the premises at the request of a resident or management and who are not loitering or otherwise suspected of violating or actually violating any law or ordinance.

(o) Entering upon any lands declared closed to entry as provided in Section 4256 of the Public Resources Code, if the closed areas shall have been posted with notices declaring the closure, at intervals not greater than one mile along the exterior boundaries or along roads

and trails passing through the lands.

(p) Refusing or failing to leave a public building of a public agency during those hours of the day or night when the building is regularly closed to the public upon being requested to do so by a regularly employed guard, watchman, or custodian of the public agency owning or maintaining the building or property, if the surrounding circumstances are such as to indicate to a reasonable man that the person has no apparent lawful business to pursue.

(q) Knowingly skiing in an area or on a ski trail which is closed to the public and which has signs posted indicating the closure.

(r) Refusing or failing to leave a hotel or motel, where he or she has obtained accommodations and has refused to pay for those accommodations, upon request of the proprietor or manager, and the occupancy is exempt, pursuant to subdivision (b) of Section 1940 of the Civil Code, from Chapter 2 (commencing with Section 1940) of Title 5 of Part 4 of Division 3 of the Civil Code.

(s) Entering upon private property, including contiguous land, real property, or structures thereon belonging to the same owner, whether or not generally open to the public, after having been informed by a peace officer at the request of the owner, the owner's agent, or the person in lawful possession, and upon being informed by the peace officer that he or she is acting at the request of the owner, the owner's agent, or the person in lawful possession, that the property is not open to the particular person; or refusing or failing to leave the property upon being asked to leave the property in the manner provided in this subdivision.

This subdivision shall apply only to a person who has been convicted of a violent felony, as specified in subdivision (c) of Section 667.5, committed upon the particular private property. A single notification or request to the person as set forth above shall be valid and enforceable under this subdivision unless and until rescinded by the owner, the owner's agent, or the person in lawful possession of the property.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1025

An act to add Chapter 3 (commencing with Section 14180) to Part 5 of Division 3 of Title 1 of the Corporations Code, relating to small business.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 3 (commencing with Section 14180) is added to Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

CHAPTER 3. SMALL BUSINESS INFORMATION NETWORK

14180. The Legislature finds and declares that while a myriad of sources of technical assistance and information are available within the state on small businesses, lack of integration of those sources and lack of adequate information on the state's small businesses remains a problem when addressing the status of small business from a legislative perspective.

14181. It is the intent of the Legislature that, in order to provide a better framework for consideration of the issues regarding the state's small businesses, the Department of Commerce shall maintain a centralized information system on small business. The data shall be compiled from, but not limited to, the following:

(a) Board of Equalization.

(b) Franchise Tax Board.

(c) Office of Small and Minority Business within the Department of General Services.

(d) Employment Development Department.

(e) Small Business Advocate within the Business, Transportation and Housing Agency.

(f) United States Small Business Administration.

(g) United States Census Bureau.

This data shall include, but not be limited to, any pertinent information regarding the numbers of small businesses, demographics, minority- and women-owned, net income, payroll, employee benefits, funding sources, size classification, and any other information deemed necessary by the Department of Commerce to carry out the objectives of this chapter.

The above-named departments and units within the California state government shall be responsible for full cooperation with the Department of Commerce to explore opportunities for expanding the scope and amount of information on the state's small business economy.

Nothing in this section shall require an agency providing the

information required under this section to disclose any confidential information that would link the data to the individual to whom it pertains.

14182. A statistical abstract of data compiled under Section 14181 shall be provided by the Department of Commerce to the Legislature and to each of the Senate and Assembly Select Committees on Small Business Enterprise on or before June 30, 1989, and on an annual basis thereafter.

CHAPTER 1026

An act to amend Section 13260 of the Water Code, relating to water quality.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 13260 of the Water Code is amended to read:

13260. (a) All of the following persons shall file with the regional board of that region a report of the discharge, containing the information which may be required by the regional board:

(1) Any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the state, other than into a community sewer system.

(2) Any person who is a citizen, domiciliary, or political agency or entity of this state discharging waste or proposing to discharge waste outside the boundaries of the state in a manner that could affect the quality of the waters of the state within any region.

(3) Any person operating or proposing to construct an injection well.

(b) No report of waste discharge need be filed pursuant to subdivision (a) if the requirement is waived pursuant to Section 13269.

(c) Every person subject to subdivision (a) shall file with the regional board of that region a report of waste discharge relative to any material change or proposed change in the character, location, or volume of the discharge.

(d) Each person for whom waste discharge requirements have been prescribed pursuant to Section 13263 shall submit an annual fee not to exceed ten thousand dollars ($10,000) according to a reasonable fee schedule established by the state board. Fees shall be calculated on the basis of total flow, volume, number of animals, or area involved.

(e) Each report of waste discharge for a new discharge submitted under this section shall be accompanied by a fee equal in amount to

the annual fee for the discharge. If waste discharge requirements are issued, the fee shall serve as the first annual fee. If waste discharge requirements are waived pursuant to Section 13269, all or part of the fee shall be refunded.

(f) (1) On or before January 1, 1990, the state board shall adopt, by emergency regulations, a schedule of fees authorized under subdivisions (d) and (j). The total revenue collected each year through annual and filing fees shall be set at an amount equal to the reimbursement levels set forth in the Budget Act for this activity. The state board shall automatically adjust the annual and filing fees each fiscal year to conform with the reimbursement levels set forth in the Budget Act for this activity.

(2) The emergency regulations adopted pursuant to this subdivision, or subsequent adjustments to the annual fees, shall be adopted by the state board in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the state board, or adjustments to the annual fees made by the state board pursuant to this section, shall not be subject to review by the Office of Administrative Law and shall remain in effect until revised by the state board.

(g) The state board shall adopt regulations setting forth reasonable time limits within which the regional board shall determine the adequacy of a report of waste discharge submitted under this section.

(h) Each report submitted under this section shall be sworn to or submitted under penalty of perjury.

(i) The regulations adopted by the state board pursuant to subdivision (f) shall include a provision that annual fees shall not be imposed on those who pay fees under the National Pollutant Discharge Elimination System until such time as those fees are again due, at which time the fees shall become due on an annual basis.

(j) Facilities for confined animal feeding or holding operations, including dairy farms, which have been issued waste discharge requirements or exempted from waste discharge requirements prior to January 1, 1989, are exempt from subdivision (d). If the facility is required to file a report under subdivision (c) after January 1, 1989, the report shall be accompanied by a filing fee, to be established by the state board in accordance with subdivision (f), not to exceed two thousand dollars ($2,000), and the facility shall be exempt from any annual fee.

(k) Any person operating or proposing to construct an oil, gas, or geothermal injection well subject to paragraph (3) of subdivision (a), shall not be required to pay a fee pursuant to subdivision (d), if the

injection well is regulated by the Division of Oil and Gas of the Department of Conservation, in lieu of the California regional water quality control board for the region, pursuant to the memorandum of understanding, entered into between the State Water Resources Control Board and the Department of Conservation on May 19, 1988. This section shall remain operative until the memorandum of understanding is revoked by the State Water Resources Control Board or the Department of Conservation.

CHAPTER 1027

An act to amend Section 82041.5 of the Government Code, relating to the Political Reform Act of 1974.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 82041.5 of the Government Code is amended to read:

82041.5. "Mass mailing" means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1028

An act to amend Section 25117.5 of the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 25117.5 of the Health and Safety Code, is amended to read:

25117.5. (a) "Infectious waste" means all of the following:

(1) Laboratory wastes, including cultures of etiologic agents, which pose a substantial threat to health due to their volume and virulence.

(2) Pathologic specimens, including human or animal tissues,

blood elements, excreta, and secretions which contain etiologic agents, and attendant disposable fomites.

(3) Surgical specimens, including human or animal parts and tissues removed surgically or at autopsy, which, in the opinion of the attending physician or veterinarian, contain etiologic agents and attendant disposable fomites.

(4) Human dialysis waste materials including arterial lines and dialysate membranes.

(5) Carcasses of animals infected with etiologic agents which may present a substantial hazard to public health if improperly managed.

(6) Equipment, instruments, utensils, or any other material which is likely to transmit etiologic agents.

(7) Any other material which the facility infection control staff determines is likely to transmit etiologic agents or presents a significant danger of infection because it is contaminated with, or may reasonably be expected to be contaminated with, etiologic agents.

(b) As used in this section, "etiologic agent" means a type of microorganism, helminth, or virus which causes, or significantly contributes to the cause of, increased morbidity or mortality of human beings.

CHAPTER 1029

An act to amend Section 25205.6 of the Health and Safety Code, to amend Sections 6073, 6359.2 6901, 6981, 7261, 7262, 8126, 8191, 8707, 9151, 9154, 9196, 12951, 12977, 19269, 30361, 30421, 32401, 32440, 38601, 38631, 40111, 40121, 41100, 41107, 43101, 43202, 43451, 43452, and 43491 of, and to repeal Section 44187 of, the Revenue and Taxation Code, to repeal Section 12122 of the Vehicle Code, and to amend Section 8 of Chapter 1144 of the Statutes of 1987, relating to taxation.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 25205.6 of the Health and Safety Code is amended to read:

25205.6. (a) The department shall compute the fees established pursuant to Section 25205.5 on or before November 1 of each year and the board shall submit a bill to each generator subject to these fees on or before December 1 of each year.

(b) The amount of the fee in the bill submitted to each generator pursuant to subdivision (a) shall be paid by the following January 1.

(c) The department shall notify the board of the occurrence of any of the following:

(1) The issuance of a permit to any facility operator, who has not

previously been granted interim status, within 30 days after the facility permit is issued.

(2) When any small storage facility or small treatment facility meets the criteria for a large storage facility or large treatment facility pursuant to Section 25205.4 during the current fiscal year.

(3) When any generator generates an amount of hazardous waste that meets a category specified in paragraph (4), (5), (6), or (7) of subdivision (b) of Section 25205.5 during the current fiscal year and this amount is greater than the amount under which the generator had been previously classified.

(4) The discovery of any generator not previously identified.

(d) The board shall submit a bill to these newly identified or reclassified facilities or generators for the fees, or difference in fees, which shall be due and payable within 30 days from the date of billing.

(e) If any fee is not paid in the time prescribed by this section, the generator shall pay the penalties and interest imposed pursuant to Sections 43155 and 43156 of the Revenue and Taxation Code except that the board may grant an extension pursuant to Section 43154 of the Revenue and Taxation Code.

(f) The generator fee due under Section 25205.5 shall be offset by any fees paid by the generator during the preceding calendar year for a local hazardous waste management program conducted by a local agency pursuant to a memorandum of understanding with the department. The amount of the credit provided under this subdivision shall not exceed an amount equal to the fees paid to the local agency or the generator fee due under Section 25205.5, whichever is less. The credit for local fees paid shall not include fees required under Chapter 6.7 (commencing with Section 25280) or Chapter 6.95 (commencing with Section 25500).

SEC. 2. Section 6073 of the Revenue and Taxation Code is amended to read:

6073. (a) When the board determines it is necessary for the efficient administration of this part, the board may require the operator of a swap meet, flea market, or special event as a prerequisite to renting or leasing space on the premises owned or controlled by such operator to a person desiring to engage in or conduct business as a seller, to obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to Section 6067 of this part, or a written statement from the seller that he or she is not offering for sale any item that is taxable under this part.

(b) "Swap meet, flea market, or special event," as used in this section, means an activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business, or any event at which two or more persons offer tangible personal property for sale or exchange and at which a fee is charged for the privilege of displaying such property for sale or exchange or at which a fee is charged to prospective buyers for admission to the area where such property is offered or displayed for sale or exchange.

(c) Any operator of a swap meet, flea market, or special event who fails or refuses to comply with the provisions of this section is punishable by a fine of not exceeding one thousand dollars ($1,000) for each offense.

SEC. 3. Section 6359.2 of the Revenue and Taxation Code is amended to read:

6359.2. (a) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1988, and ending on December 31, 1988, 77 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(b) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1989, and ending on December 31, 1989, 55 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(c) Except as otherwise provided in Sections 6359.4, 6359.45, 6363, and 6370, for the year beginning on January 1, 1990, and thereafter, 33 percent of the gross receipts of any retailer from the sale at retail of food products shall be subject to the tax imposed by Section 6051, when those food products are actually sold through a vending machine.

(d) (1) The Legislature finds that 33 percent represents the statewide average of food products sold through vending machines which are subject to the tax imposed under this part. Therefore, the Legislature establishes this average as the measure of the tax with respect to vending machine sales to simplify tax auditing procedures and to provide for uniformity in the taxation of gross receipts derived from the sale of food products through vending machines.

(2) The Legislature also finds that due to fiscal constraints, it is necessary to phase in the partial exemption for sales made through vending machines in the 1988 and 1989 calendar years.

(e) For purposes of this section, "food products" includes hot coffee, hot tea, and hot chocolate, when those hot beverages are actually sold through a vending machine for a separate price. "Food products" does not include other hot prepared food products, as defined in Section 6359.

SEC. 4. Section 6901 of the Revenue and Taxation Code is amended to read:

6901. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable

from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

The board, however, without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors, if a determination by the board is made in either of the following cases:

(a) An amount of tax, interest, or penalty not exceeding fifty thousand dollars ($50,000) was not required to be paid.

(b) Any amount of prepayment of sales tax, interest, or penalty paid pursuant to Article 1.5 (commencing with Section 6480) of Chapter 5 was not required to be paid.

Any overpayment of the use tax by a purchaser to a retailer who is required to collect the tax and who gives the purchaser a receipt therefor pursuant to Article 1 (commencing with Section 6201) of Chapter 3 shall be credited or refunded by the state to the purchaser.

SEC. 5. Section 6981 of the Revenue and Taxation Code is amended to read:

6981. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 6. Section 7261 of the Revenue and Taxation Code, as amended by Section 9 of Chapter 838 of the Statutes of 1985, is amended to read:

7261. (a) The transactions tax portion of any transactions and use taxes ordinance adopted under this part shall be imposed for the privilege of selling tangible personal property at retail, and shall include provisions in substance as follows:

(1) A provision imposing a tax for the privilege of selling tangible personal property at retail upon every retailer in the district at a rate of one-half of 1 percent of the gross receipts of the retailer from the sale of all tangible personal property sold by that person at retail in the district.

(2) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to sales taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state and that an additional transactor's permit shall not be required if a seller's permit

has been or is issued to the transactor under Section 6067.

(3) A provision that all amendments subsequent to the effective date of this part to Part 1 (commencing with Section 6001) relating to sales tax and not inconsistent with this part shall automatically become a part of the transactions and use taxes ordinance; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by the district's board.

(4) A provision that the amount subject to tax shall not include the amount of sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.

(5) A provision that there are exempted from the tax the gross receipts from the sale of tangible personal property to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this state, the United States, or any foreign government.

(6) A provision that sales of property to be used outside the district which are shipped to a point outside the district, pursuant to the contract of sale, by delivery to such point by the retailer or her agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point, are exempt from the tax.

For purposes of this section, "delivery" of vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code shall be satisfied by registration to an out-of-district address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence.

"Delivery" of commercial vehicles shall be satisfied by registration to a place of business out of district and a declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(7) A provision that the sale of tangible personal property is exempt from tax if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. A lease of tangible personal property which is a continuing sale of such property is exempt from tax for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance. For the purposes of this subdivision, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such

right is exercised.

(b) This section shall cease to be operative on March 1, 1984, and thereafter this section shall become operative on January 1, 1988.

SEC. 7. Section 7262, as amended by Chapter 308 of the Statutes of 1987, is amended to read:

7262. (a) The use tax portion of any transactions and use tax ordinance adopted under this part shall impose a complementary tax upon the storage, use, or other consumption in the district of tangible personal property purchased from any retailer for storage, use, or other consumption in the district. The tax shall be at a rate of one-half of 1 percent of the sales price of the property whose storage, use, or other consumption is subject to the tax, and the ordinance shall include provisions in substance as follows:

(1) Provisions identical to those contained in Part 1 (commencing with Section 6001), insofar as they relate to use taxes and are not inconsistent with this part, except that the name of the district as the taxing agency shall be substituted for that of the state. The name of the district shall be substituted for the word "state" in the phrase "retailer engaged in business in this state" in Section 6203 and in the definition of that phrase.

The following additional provisions shall be included:

(A) Except as provided in subparagraph (B), a retailer engaged in business in the district shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the district or participates within the district in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the district or through any representative, agent, canvasser, solicitor, subsidiary, or person in the district under the authority of the retailer.

(B) "A retailer engaged in business in the district" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the district.

(2) A provision that all amendments to the provisions of Part 1 (commencing with Section 6001) relating to the use tax and not inconsistent with this part shall automatically become a part of the ordinance. However, no amendment shall operate so as to affect the rate of tax imposed by the district's board.

(3) A provision that the amount subject to tax shall not include the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) or the amount of any

state-administered transactions or use tax.

(4) A provision that any person subject to a use tax under an ordinance adopted pursuant to this part shall be entitled to credit against that tax or any transactions tax, or to reimbursement for a transactions tax, paid to a district or retailer in a district imposing a transactions and use tax pursuant to this part.

(5) A provision that, in addition to the exemptions provided in Sections 6366 and 6366.1, the storage, use, or other consumption of tangible personal property purchased by operators of aircraft, and used or consumed by the operators directly and exclusively in the use of the aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this state, the United States, or any foreign government, is exempt from the use tax.

(6) A provision that the storage, use, or other consumption in the district of tangible personal property is exempt from the tax if the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of the ordinance. The possession of, or the exercise of any right or power over, tangible personal property under a lease which is a continuing purchase of the property is exempt from tax for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease entered into prior to the operative date of the ordinance. For purposes of this subdivision, the storage, use, or other consumption of, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not the right is exercised.

(b) This section shall become operative on January 1, 1988.

SEC. 8. Section 8126 of the Revenue and Taxation Code is amended to read:

8126. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected and, if the State Board of Control approves, shall certify the amount to the Controller for credit or refund.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may certify the amount to the Controller for credit or refund.

SEC. 9. Section 8191 of the Revenue and Taxation Code is amended to read:

8191. If the board determines that any amount in excess of fifty thousand dollars ($50,000) has been illegally determined to be due

from any person either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board and the Controller. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the Controller and the board.

SEC. 10. Section 8707 of the Revenue and Taxation Code is amended to read:

8707. Subsequent to the revocation of the permit of a user the board shall reinstate the permit when the user pays the amount of excise tax determined, together with interest and penalties, fully complies with the provisions of this part, and pays a fee of fifty dollars ($50) to the board for reinstatement. The fee shall not be subject to refund except as provided in Section 9151.

SEC. 11. Section 9151 of the Revenue and Taxation Code is amended to read:

9151. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount paid in excess of the amount legally due and the person by whom the excess was paid to the board or from whom it was collected. If the State Board of Control approves, the excess amount paid or collected shall be credited on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall either be refunded to the person, or his or her successors, administrators, executors, or assigns, or, if authorized by the board, deducted by the person from any amounts to become due from him or her under this part.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

Any overpayment of the tax by a user to a vendor who is required to collect the tax and who gives the user a receipt therefor pursuant to Section 8732 shall be credited or refunded by the state to the user.

SEC. 12. Section 9154 of the Revenue and Taxation Code is amended to read:

9154. In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not

required to be paid under this part, the board, without obtaining the approval of the State Board of Control, may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may authorize the person to deduct the balance from any amounts to become due from him or her under this part.

SEC. 13. Section 9196 of the Revenue and Taxation Code is amended to read:

9196. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 14. Section 12951 of the Revenue and Taxation Code is amended to read:

12951. If an amount in excess of fifty thousand dollars ($50,000) has been illegally assessed, the board shall set forth that fact in its records and certify to the State Board of Control the amount assessed in excess of the amount legally assessed and the insurer against whom the assessment was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the Controller and the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally assessed, the board, without certifying this fact to the State Board of Control, shall authorize the cancellation of the amount upon the records of the Controller and the board. The board shall mail a notice to the insurer of any cancellation authorized.

SEC. 15. Section 12977 of the Revenue and Taxation Code is amended to read:

12977. (a) If the board determines that any tax, interest, or penalty has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in its records of the board and shall certify to the State Board of Control the amount of the taxes, interest, or penalties collected in excess of what was legally due, and from whom they were collected or by whom paid. If approved by the State Board of Control, the excess shall be certified to the Controller for credit or refund. In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may certify the amount to the Controller for credit or refund.

(b) Notwithstanding the provisions of subdivision (a), approval of the State Board of Control shall not be required with regard to a refund resulting from prepayment of taxes during and for the calendar year.

(c) The Controller upon receipt of a certification for credit or refund shall credit the excess on any amounts then due and payable from the insurer under this part and refund the balance.

SEC. 16. Section 19269 of the Revenue and Taxation Code is amended to read:

19269. (a) The rate established under this section (referred to in other code sections as "the adjusted annual rate") shall be determined in accordance with the provisions of Section 6621 of the Internal Revenue Code, except that:

(1) The overpayment rate specified in Section 6621(a)(1) of the Internal Revenue Code shall be modified to be equal to the underpayment rate determined under Section 6621(a)(2) of the Internal Revenue Code; and

(2) The determination specified in subsection (b) of Section 6621 shall be modified to be determined semiannually as follows:

(A) The rate for the first month in the first calendar quarter shall apply during the second and third calendar quarters beginning after that month. and

(B) The rate for the first month in the third calendar quarter shall apply during the second and third calendar quarters beginning after that month.

(b) (1) For purposes of this part, Part 11 (commencing with Section 23001), and any other provision of law referencing this method of computation, in computing the amount of any interest required to be paid by the state or by the taxpayer, or any other amount determined by reference to that amount of interest, that interest and that amount shall be compounded daily.

(2) Paragraph (1) shall not apply for purposes of computing the amount of any addition to tax under Section 18682 or 25951.

(3) This subdivision shall apply to interest accruing after June 30, 1983.

As of June 30, 1983, all taxes, assessed penalties, or additions to tax, and interest (whether or not assessed) shall be added together to determine the amount to be carried over on which daily interest shall be charged in accordance with this subdivision.

SEC. 17. Section 30361 of the Revenue and Taxation Code is amended to read:

30361. If the board determines that any amount not required to be paid under this part has been paid by any person, the board shall set forth that fact in its records and certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom it was paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was

collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board, without obtaining approval of the State Board of Control, may credit such amount on any amounts then due and payable under this part from the person by whom the amount was paid and shall refund the balance to the person or his or her successors, administrators or executors.

SEC. 18. Section 30421 of the Revenue and Taxation Code is amended to read:

30421. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 19. Section 32401 of the Revenue and Taxation Code is amended to read:

32401. If the board determines that any amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

SEC. 20. Section 32440 of the Revenue and Taxation Code is amended to read:

32440. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and

the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined, either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 21. Section 38601 of the Revenue and Taxation Code is amended to read:

38601. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

SEC. 22. Section 38631 of the Revenue and Taxation Code is amended to read:

38631. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 23. Section 40111 of the Revenue and Taxation Code is amended to read:

40111. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved

by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

Any overpayment of the surcharge by a consumer to the state shall be credited or refunded by the state to the consumer.

SEC. 24. Section 40121 of the Revenue and Taxation Code is amended to read:

40121. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 25. Section 41100 of the Revenue and Taxation Code is amended to read:

41100. If the board determines that any amount, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case, however, of a determination by the board that an amount not exceeding fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

Any overpayment of the surcharge by a service user to a service

supplier who is required to collect the surcharge shall be credited or refunded by the state to the service user; provided however, that if the service supplier has paid the amount to the board and establishes to the satisfaction of the board that it has not collected the amount from the service user or has refunded the amount to the service user, the overpayment may be credited or refunded by the state to the service supplier.

SEC. 26. Section 41107 of the Revenue and Taxation Code is amended to read:

41107. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 27. Section 43101 of the Revenue and Taxation Code is amended to read:

43101. Every person, as defined in Section 25118 of the Health and Safety Code, who is subject to the fees imposed pursuant to Section 25174, 25205.2, 25205.5, or 25345 of the Health and Safety Code shall register with the board on forms provided by the board.

SEC. 28. Section 43202 of the Revenue and Taxation Code is amended to read:

43202. Except in the case of fraud, intent to evade this part, authorized rules and regulations, or failure to make a return, every notice of a determination of an additional amount due shall be given within three years after the date when the amount should have been paid. In the case of failure to make a return, the notice of determination shall be mailed within eight years after the date the report or return was due.

SEC. 29. Section 43451 of the Revenue and Taxation Code is amended to read:

43451. If the board determines that any amount of tax, penalty, or interest has been paid more than once or has been erroneously or illegally collected or computed, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of what was legally due and the person from whom it was collected or by whom paid. If approved by the State Board of Control, the excess amount collected or paid shall be credited on any amounts then due from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

However, in the case of a determination by the board that an amount not to exceed fifty thousand dollars ($50,000) was not required to be paid under this part, the board without obtaining the approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

SEC. 30. Section 43452 of the Revenue and Taxation Code is amended to read:

43452. (a) Except as provided in subdivision (b), no refund shall be approved by the board after three years from the date the taxes were due and payable for the period for which the overpayment was made, or, with respect to determinations made under Article 2 (commencing with Section 43201) of Chapter 3, after six months from the date the determinations become final, whichever period expires later, unless a claim therefor is filed with the board within that period. No credit shall be approved by the board after the expiration of that period, unless a claim for credit is filed with the board within that period or unless the credit relates to a period for which a waiver is given pursuant to Section 43204.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 43204 if a claim therefor is filed with the board before the expiration of the period agreed upon.

(c) Every claim for refund or credit shall be in writing and shall state the specific grounds upon which the claim is founded.

(d) No claim for refund of taxes paid under this part shall be accepted, considered, or approved by the board if the claim is founded upon the grounds that the director has improperly or erroneously determined that any substance is a hazardous or extremely hazardous waste. Any appeal of a determination that a substance is a hazardous or extremely hazardous waste shall be made to the director.

SEC. 31. Section 43491 of the Revenue and Taxation Code is amended to read:

43491. If any amount in excess of fifty thousand dollars ($50,000) has been illegally determined, either by the person filing the return or by the board, the board shall certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding fifty thousand dollars ($50,000) has been illegally determined, either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

SEC. 32. Section 44187 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 12122 of the Vehicle Code is repealed.

SEC. 34. Section 8 of Chapter 1144 of the Statutes of 1987 is

amended to read:

Sec. 8. Sections 4 to 7, inclusive, of this act shall become operative only if the Attorney General certifies to the Legislature and to the Executive Secretary of the State Board of Equalization that subdivisions (d), (e), (f), (g), and (h) of Section 6203 of the Revenue and Taxation Code, as added by Section 2 of Chapter 1145 of the Statutes of 1987, are legally enforceable under the United States Constitution, as determined by a final adjudication in the courts, and the Department of Finance certifies to the Legislature that revenues attributable to those subdivisions are being remitted to the State Board of Equalization, in which case those sections of this act shall become operative on the first day of the second calendar quarter commencing after the later of the two dates of those certifications.

SEC. 35. Section 1 of this bill shall not become operative if (1) this bill and SB 2094 are enacted and become effective on or before January 1, 1989, and (2) each bill affects Section 25205.6 of the Health and Safety Code.

CHAPTER 1030

An act to add and repeal Section 42239.5 of the Education Code, relating to education.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Saturday School Act of 1988.

SEC. 2. The Legislature declares that the purposes of this act are as follows:

(a) To provide supplemental educational opportunities for pupils through instruction on Saturdays during the regular school year.

(b) To provide motivated pupils with instruction with smaller student/teacher ratios.

(c) To increase the instructional time in core academic subject areas.

(d) To improve academic achievement in low-performing schools.

SEC. 3. Section 42239.5 is added to the Education Code, to read:

42239.5. (a) For the 1988–89 fiscal year and each fiscal year thereafter, average daily attendance generated by elementary and secondary school pupils in voluntary Saturday school programs shall be eligible for summer school apportionments calculated pursuant to Section 42239 if those programs meet the following conditions:

(1) The instruction is in core academic areas specified in paragraph (2) of subdivision (d) of Section 42239.

(2) The instruction is provided on Saturday and does not exceed 180 minutes.

(3) The average pupil/teacher ratio does not exceed 20:1.

(4) Attendance by the pupils is not required by the participating schools and districts.

(b) Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program established pursuant to this section for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program established pursuant to this section for religious reasons, shall be given priority over pupils who have attended the Saturday school program for enrollment in the regular summer school program if he or she chooses to enroll in the regular summer school program.

(c) Participating districts shall encourage the participation of elementary and secondary schools with low academic performance.

(d) The Superintendent of Public Instruction shall develop and distribute a program advisory to school districts on this program option.

(e) This section shall become inoperative on June 30, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

CHAPTER 1031

An act to amend and repeal Section 8624 of, to amend, repeal, and add Section 8724 of, and to add Sections 8625 and 8626 to, the Fish and Game Code, relating to fish.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 8624 of the Fish and Game Code is amended to read:

8624. (a) Set gill nets and trammel nets with mesh size of not less than 8½ inches may be used to take California halibut in ocean waters between a line extending due west magnetic from Ragged Point in San Luis Obispo County and a line extending due west magnetic from Point Dume in Los Angeles County.

(b) No permittee operating under a gill net or trammel net permit issued pursuant to Section 8681 shall fish, in combination each day, more than 1,000 fathoms (6,000 feet) of set gill or trammel nets for California halibut in ocean waters between a line extending due west magnetic from Ragged Point in San Luis Obispo County and a line extending due west magnetic from Point Dume in Los Angeles

County.

(c) This section shall become inoperative on August 15, 1989, and, as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 8625 is added to the Fish and Game Code, to read:

8625. (a) Except as otherwise provided in this code, set gill nets and trammel nets with mesh size of not less than 8½ inches may be used to take California halibut.

(b) Except as provided in subdivision (c), not more than 1,500 fathoms (9,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters.

(c) Not more than 1,000 fathoms (6,000 feet) of gill net or trammel net shall be fished in combination each day for California halibut from any vessel in ocean waters between a line extending due west magnetic from Point Arguello in Santa Barbara County and a line extending 172° magnetic from Rincon Point in Santa Barbara County to San Pedro Point at the east end of Santa Cruz Island in Santa Barbara County, then extending southwesterly 188° magnetic from San Pedro Point on Santa Cruz Island.

(d) This section shall become operative on August 15, 1989.

SEC. 3. Section 8626 is added to the Fish and Game Code, to read:

8626. (a) Notwithstanding Section 8625, and where consistent with the determination made pursuant to subdivisions (b) and (c), the director may reduce the minimum mesh size permitted for gill and trammel nets used to take California halibut from 8½ inches to not less than 8 inches in any or all areas south of a line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura.

(b) If, on or before October 1, 1990, the department determines that commercial landings of California halibut taken south of the line extending 240° magnetic from the boundary line between the Counties of Los Angeles and Ventura in the period between September 1, 1989, and August 31, 1990, decline by 10 percent or more compared with landings of California halibut taken in this area during the period between September 1, 1988, and August 31, 1989, the department shall assess the impact of the 8½ inch minimum mesh size restriction on the California halibut fishery in the area described in subdivision (a). The assessment shall include, but is not limited to, an analysis of landing data, including landings of California halibut in Los Angeles, Orange, and San Diego Counties, the age and size composition of the catch, and the department's monitoring at sea of the gill and trammel net fishery.

(c) If the department determines that the 8½ inch minimum mesh size, established pursuant to Section 8625 has directly resulted in a decline of 10 percent or more in landings of California halibut south of the line extending 240° magnetic from the boundary between the Counties of Los Angeles and Ventura, the director shall

hold a public hearing in the area affected to make findings and take public testimony prior to taking any action pursuant to subdivision (a).

(d) This section shall become operative on August 15, 1989.

SEC. 4. Section 8724 of the Fish and Game Code is amended to read:

8724. (a) Except as otherwise provided, in Districts 10, 17, 18, and 19, drift and set trammel nets may be used if the meshes are at least eight inches in length, except that these nets may not be used in District 18 within 750 feet of any pier or jetty, nor may they be used for the taking of salmon.

(b) This section shall become inoperative on August 15, 1989, and, as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 8724 is added to the Fish and Game Code, to read:

8724. (a) Except as otherwise provided, in Districts 10, 17, 18, and 19, drift and set trammel nets may be used if the meshes are at least 8½ inches in length, except that these nets may not be used in District 18 within 750 feet of any pier or jetty, nor may they be used for the taking of salmon.

(b) This section shall become operative on August 15, 1989.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1032

An act to amend Section 2093 of the Code of Civil Procedure, relating to oaths.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 2093 of the Code of Civil Procedure is amended to read:

2093. (a) Every court, every judge, or clerk of any court, every justice, and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or to decide upon evidence, has the power to administer oaths or affirmations.

(b) Every shorthand reporter certified pursuant to Article 3 (commencing with Section 8020) of Chapter 13 of Division 3 of the

Business and Professions Code has the power to administer oaths or affirmations and may perform the duties of the deposition officer pursuant to Section 2025. The certified shorthand reporter shall be entitled to receive fees for services rendered during a deposition, including fees for deposition services, as specified in subdivision (c) of Section 8211 of the Government Code.

(c) A former judge or justice of a court of record in this state who retired or resigned from office, other than a judge or justice who was retired by the Supreme Court for disability, shall have the power to administer oaths or affirmations, if the former judge or justice requests and receives a certification from the Commission on Judicial Performance that there was no formal disciplinary proceeding pending at the time of retirement or resignation. Where no formal disciplinary proceeding was pending at the time of retirement or resignation, the Commission on Judicial Performance shall issue the certification.

No law, rule, or regulation regarding the confidentiality of proceedings of the Commission on Judicial Performance shall be construed to prohibit the Commission on Judicial Performance from issuing a certificate as provided for in this section.

CHAPTER 1033

An act to add Section 798.81 to the Civil Code, relating to housing.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 798.81 is added to the Civil Code, to read:

798.81. The management (1) shall not prohibit the listing or sale of a used mobilehome within the park by the homeowner, or an agent of the homeowner other than the management, (2) nor require the selling homeowner to authorize the management to act as the agent in the sale of a mobilehome as a condition of approval of the buyer or prospective homeowner for residency in the park.

CHAPTER 1034

An act to amend Section 831.25 of the Government Code, relating to public liability.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 831.25 of the Government Code is amended to read:

831.25. (a) Neither a public entity nor a public employee is liable for any damage or injury to property, or for emotional distress unless the plaintiff has suffered substantial physical injury, off the public entity's property caused by land failure of any unimproved public property if the land failure was caused by a natural condition of the unimproved public property.

(b) For the purposes of this section, a natural condition exists and property shall be deemed unimproved notwithstanding the intervention of minor improvements made for the preservation or prudent management of the property in its unimproved state that did not contribute to the land failure.

(c) As used in this section, "land failure" means any movement of land, including a landslide, mudslide, creep, subsidence, and any other gradual or rapid movement of land.

(d) This section shall not benefit any public entity or public employee who had actual notice of probable damage that is likely to occur outside the public property because of land failure and who fails to give a reasonable warning of the danger to the affected property owners. Neither a public entity nor a public employee is liable for any damage or injury arising from the giving of a warning under this section.

(e) Nothing in this section shall limit the immunity provided by Section 831.2.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury to property or of liability for emotional distress.

CHAPTER 1035

An act to amend Sections 7044, 7085.8, and 7111 of, and to add Sections 7026.12 and 7085.9 to, the Business and Professions Code, relating to contractors.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 7026.12 is added to the Business and Professions Code, to read:

7026.12. Notwithstanding any other provision of law, on and after January 1, 1990, the installations of all fire protection systems, excluding electrical alarm systems, shall only be performed by a contractor holding a fire protection contractor classification as defined in the regulations of the board

SEC. 1.3. Section 7044 of the Business and Professions Code is amended to read:

7044. This chapter does not apply to any of the following:

(a) An owner of property, building or improving structures thereon, or appurtenances thereto, who does the work himself or herself or through his or her own employees with wages as their sole compensation, provided none of the structures, with or without the appurtenances thereto, are intended or offered for sale.

(b) An owner of property, building or improving structures thereon, or appurtenances thereto, who contracts for such a project with a subcontractor or subcontractors licensed pursuant to this chapter.

However, this exemption shall apply to the construction of single-family residential structures only if four or fewer of these structures are intended or offered for sale in a calendar year. This limitation shall not apply if the owner of property contracts with a general contractor for the construction.

(c) A homeowner improving his or her principal place of residence or appurtenances thereto, provided that all of the following conditions exist:

(1) The work is performed prior to sale.

(2) The homeowner has actually resided in the residence for the 12 months prior to completion of the work.

(3) The homeowner has not availed himself or herself of the exemption in this subdivision on more than two structures more than once during any three-year period.

In all actions brought under this chapter, proof of the sale or offering for sale of any such structure by the owner-builder within one year after completion of same constitutes a rebuttable presumption affecting the burden of proof that such structure was undertaken for purposes of sale. Except as otherwise provided in this

section, proof of the sale or offering for sale of five or more structures by the owner-builder within one year after completion constitutes a conclusive presumption that the structures were undertaken for purposes of sale.

In addition to all other remedies, any (1) licensed contractor, or association of contractors, (2) labor organization, (3) consumer affected by the violation, (4) district attorney, or (5) the Attorney General, shall be entitled to seek injunctive relief prohibiting any violation of this chapter by an owner-builder who is neither licensed nor exempted from licensure by this section or any other section according to the provisions specified in Section 7028.3 or Section 7028.4. The plaintiff in any such action shall not be required to prove irreparable injury and shall be entitled to attorneys' fees and all costs incurred in the prosecution of such action, provided the plaintiff is the prevailing party. The defendant in any such action, shall be entitled to attorneys' fees and all costs incurred in the defense against such action, provided the defendant is the prevailing party.

The registrar pursuant to Section 7090 may take disciplinary action as provided in this chapter against any person whenever the grounds or cause for disciplinary action arose upon any project undertaken by him or her as a licensee licensed pursuant to this chapter.

Any person, firm, or corporation which has violated Section 7028 by engaging in contracting work as an owner-builder without having a license or an exemption from licensure under this section or any other section shall not be entitled to become a licensee under this chapter for a period of one year following the violation.

SEC. 1.5. Section 7085.8 of the Business and Professions Code is amended to read:

7085.8. Any action of the registrar issued pursuant to this article shall be subject to Section 7013.

SEC. 2. Section 7085.9 is added to the Business and Professions Code, to read:

7085.9. Notwithstanding any other provision of law, a complaint referred to arbitration pursuant to Section 7085 is not subject to disclosure to the public until such time as an investigation into an alleged violation of Section 7085.6 has been initiated by the registrar.

SEC. 3. Section 7111 of the Business and Professions Code is amended to read:

7111. Failure to make and keep records showing all contracts, documents, records, receipts and disbursements by a licensee of all of his or her transactions as a contractor, and failure to have those records available for inspection by the registrar or his or her duly authorized representative for a period of not less than five years after completion of any construction project or operation to which the records refer, or refusal by a licensee to comply with a written request of the registrar to make the records available for inspection constitutes a cause for disciplinary action.

SEC. 4. The amendments to Section 7111 of the Business and Professions Code made at the 1988 portion of the 1987–88 session of

the Legislature increasing the period of time which a contractor shall keep records from three years to five years shall apply only to those construction projects or operations which are completed on and after January 1, 1989.

CHAPTER 1036

An act to amend Sections 490.5 and 1001.65 of the Penal Code, relating to criminal law.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 490.5 of the Penal Code is amended to read:

490.5. (a) Upon a first conviction for petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, a person shall be punished by a mandatory fine of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) for each such violation; and may also be punished by imprisonment in the county jail, not exceeding six months, or both such fine and imprisonment.

(b) When an unemancipated minor's willful conduct would constitute petty theft involving merchandise taken from a merchant's premises or a book or other library materials taken from a library facility, any merchant or library facility who has been injured by that conduct may bring a civil action against the parent or legal guardian having control and custody of the minor. For the purposes of those actions the misconduct of the unemancipated minor shall be imputed to the parent or legal guardian having control and custody of the minor. The parent or legal guardian having control or custody of an unemancipated minor whose conduct violates this subdivision shall be jointly and severally liable with the minor to a merchant or to a library facility for damages of not less than fifty dollars ($50) nor more than five hundred dollars ($500), plus costs. In addition to the foregoing damages, the parent or legal guardian shall be jointly and severally liable with the minor to the merchant for the retail value of the merchandise if it is not recovered in a merchantable condition, or to a library facility for the fair market value of its book or other library materials. Recovery of these damages may be had in addition to, and is not limited by, any other provision of law which limits the liability of a parent or legal guardian for the tortious conduct of a minor. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of that court, or in any other appropriate court; however, total damages, including the value of the merchandise or book or other

library materials, shall not exceed five hundred dollars ($500) for each action brought under this section.

The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies, except that the provisions of Section 1714.1 of the Civil Code shall not apply herein.

(c) When an adult or emancipated minor has unlawfully taken merchandise from a merchant's premises, or a book or other library materials from a library facility, the adult or emancipated minor shall be liable to the merchant or library facility for damages of not less than fifty dollars ($50) nor more than five hundred dollars ($500), plus costs. In addition to the foregoing damages, the adult or emancipated minor shall be liable to the merchant for the retail value of the merchandise if it is not recovered in merchantable condition, or to a library facility for the fair market value of its book or other library materials. An action for recovery of damages, pursuant to this subdivision, may be brought in small claims court if the total damages do not exceed the jurisdictional limit of such court, or in any other appropriate court. The provisions of this subdivision are in addition to other civil remedies and do not limit merchants or other persons to elect to pursue other civil remedies.

(d) In lieu of the fines prescribed by subdivision (a), any person may be required to perform public services designated by the court, provided that in no event shall any such person be required to perform less than the number of hours of such public service necessary to satisfy the fine assessed by the court as provided by subdivision (a) at the minimum wage prevailing in the state at the time of sentencing.

(e) All fines collected under this section shall be collected and distributed in accordance with Sections 1463 and 1463.1 of the Penal Code; provided, however, that a county may, by a majority vote of the members of its board of supervisors, allocate any amount up to, but not exceeding 50 percent of such fines to the county superintendent of schools for allocation to local school districts. The fines allocated shall be administered by the county superintendent of schools to finance public school programs, which provide counseling or other educational services designed to discourage shoplifting, theft, and burglary. Subject to rules and regulations as may be adopted by the Superintendent of Public Instruction, each county superintendent of schools shall allocate such funds to school districts within the county which submit project applications designed to further the educational purposes of this section. The costs of administration of this section by each county superintendent of schools shall be paid from the funds allocated to the county superintendent of schools.

(f) (1) A merchant may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the merchant has probable cause to believe the person to be detained is attempting to unlawfully take or has unlawfully taken

merchandise from the merchant's premises.

A person employed by a library facility may detain a person for a reasonable time for the purpose of conducting an investigation in a reasonable manner whenever the person employed by a library facility has probable cause to believe the person to be detained is attempting to unlawfully remove or has unlawfully removed books or library materials from the premises of the library facility.

(2) In making the detention a merchant or a person employed by a library facility may use a reasonable amount of nondeadly force necessary to protect himself or herself and to prevent escape of the person detained or the loss of property.

(3) During the period of detention any items which a merchant or any items which a person employed by a library facility has probable cause to believe are unlawfully taken from the premises of the merchant or library facility and which are in plain view may be examined by the merchant or person employed by a library facility for the purposes of ascertaining the ownership thereof.

(4) A merchant, a person employed by a library facility, or an agent thereof, having probable cause to believe the person detained was attempting to unlawfully take or has taken any item from the premises, may request the person detained to voluntarily surrender the item. Should the person detained refuse to surrender the item of which there is probable cause to believe has been unlawfully taken from the premises, or attempted to be unlawfully taken from the premises, a limited and reasonable search may be conducted by those authorized to make the detention in order to recover the item. Only packages, shopping bags, handbags or other property in the immediate possession of the person detained, but not including any clothing worn by the person, may be searched pursuant to this subdivision. Upon surrender or discovery of the item, the person detained may also be requested, but may not be required, to provide adequate proof of his or her true identity.

(5) A peace officer who accepts custody of a person arrested for an offense contained in this section may, subsequent to the arrest, search the person arrested and his or her immediate possessions for any item or items alleged to have been taken.

(6) In any civil action brought by any person resulting from a detention or arrest by a merchant, it shall be a defense to such action that the merchant detaining or arresting such person had probable cause to believe that the person had stolen or attempted to steal merchandise and that the merchant acted reasonably under all the circumstances.

In any civil action brought by any person resulting from a detention or arrest by a person employed by a library facility, it shall be a defense to such action that the person employed by a library facility detaining or arresting such person had probable cause to believe that the person had stolen or attempted to steal books or library materials and that the person employed by a library facility acted reasonably under all the circumstances.

(g) As used in this section:

(1) "Merchandise" means any personal property, capable of manual delivery, displayed, held or offered for retail sale by a merchant.

(2) "Merchant" means an owner or operator, and the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises used for the retail purchase or sale of any personal property capable of manual delivery.

(3) The terms "book or other library materials" include any book, plate, picture, photograph, engraving, painting, drawing, map, newspaper, magazine, pamphlet, broadside, manuscript, document, letter, public record, microform, sound recording, audiovisual material in any format, magnetic or other tape, electronic data-processing record, artifact, or other documentary, written or printed material regardless of physical form or characteristics, or any part thereof, belonging to, on loan to, or otherwise in the custody of a library facility.

(4) The term "library facility" includes any public library; any library of an educational, historical or eleemosynary institution, organization or society; any museum; any repository of public records.

(h) Any library facility shall post at its entrance and exit a conspicuous sign to read as follows:

"IN ORDER TO PREVENT THE THEFT OF BOOKS AND LIBRARY MATERIALS, STATE LAW AUTHORIZES THE DETENTION FOR A REASONABLE PERIOD OF ANY PERSON USING THESE FACILITIES SUSPECTED OF COMMITTING "LIBRARY THEFT" (PENAL CODE SECTION 490.5)."

SEC. 2. Section 1001.65 of the Penal Code is amended to read:

1001.65. (a) A district attorney may collect a fee if his or her office collects and processes a bad check. The amount of the fee shall not exceed twenty-five dollars ($25) for each bad check.

(b) Notwithstanding subdivision (a), if a bad check case is not referred to a diversion program pursuant to this chapter, the court may impose a bad check collection fee for the collection and processing of a bad check by the district attorney of not more than twenty-five dollars ($25) for each bad check, not to exceed one thousand dollars ($1,000) in the aggregate. The court may also, as a condition of probation, require a defendant to participate in and successfully complete a check writing education class. If so required, the court shall make inquiry into the financial condition of the defendant, and upon a finding that the defendant is able in whole or part to pay the expense of the education class, the court may order him or her to pay for all or part of that expense.

CHAPTER 1037

An act to amend Section 5653 of, and to add Sections 5653.3, 5653.5, 5653.7, and 5653.9 to, the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 5653 of the Fish and Game Code is amended to read:

5653. (a) Before any person uses any vacuum or suction dredge equipment in any river, stream or lake of this state, the person shall submit an application for a permit for a dredge to the department, specifying the type and size of equipment to be used and other information as the department may require.

(b) The department may designate waters or areas wherein vacuum or suction dredges may be used pursuant to a permit, waters or areas closed to those dredges, the maximum size of those dredges which may be used, and the time of year when those dredges may be used. If the department determines that the operation will not be deleterious to fish, it shall issue a permit to the applicant. If any person operates any equipment other than that authorized by the permit or conducts the operation in any waters or area or at any time which is not authorized by the permit, or if any person conducts the operation without securing the permit, the person is guilty of a misdemeanor.

(c) The department shall issue a permit upon the payment, in the case of a resident, of a base fee of twenty-five dollars ($25), as adjusted under Section 713, when an onsite investigation of the project size is not deemed necessary by the department, and a base fee of one hundred thirty dollars ($130), as adjusted under Section 713, when the department deems an onsite investigation is necessary. In the case of a nonresident, the base fee shall be one hundred dollars ($100), as adjusted under Section 713, when an onsite investigation is not deemed necessary, and a base fee of two hundred twenty dollars ($220), as adjusted under Section 713, when an onsite investigation is deemed necessary.

(d) It is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, which are closed to the use of vacuum or suction dredges.

SEC. 2. Section 5653.3 is added to the Fish and Game Code, to read:

5653.3. Any person required to possess a permit pursuant to Section 5653 shall present his or her dredging equipment for inspection upon request of a state or county fish and game warden.

SEC. 3. Section 5653.5 is added to the Fish and Game Code, to

read:

5653.5. For purposes of Section 5653, "river, stream, or lake" means the body of water at the current water level at the time of the dredging.

SEC. 4. Section 5653.7 is added to the Fish and Game Code, to read:

5653.7. In the event of an unanticipated water level change, when necessary to protect fish and wildlife resources, the department may close areas that were otherwise opened for dredging and for which permits were issued pursuant to Section 5653.

SEC. 5. Section 5653.9 is added to the Fish and Game Code, to read:

5653.9. The department may adopt regulations to carry out Sections 5653, 5653.3, 5653.5, and 5653.7.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1038

An act to amend Section 3212.1 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 3212.1 of the Labor Code is amended to read:

3212.1. In the case of active firefighting members of fire departments of cities, counties, cities and counties, districts, or other public or municipal corporations or political subdivisions, and active firefighting members of the fire departments of the University of California and the California State University, whether these members are volunteers, partly paid, or fully paid, and in the case of active firefighting members of the Department of Forestry, or of any county forestry or firefighting department or unit, whether volunteers, partly paid, or fully paid, the term "injury" as used in this division includes cancer which develops or manifests itself during a period while the member is in the service of the department or unit, provided that the member demonstrates that he or she was exposed, while in the service of the department or unit, to a known carcinogen as defined by the International Agency for Research on Cancer, or

as defined by the director, and that the carcinogen is reasonably linked to the disabling cancer.

The compensation which is awarded for cancer shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by this division.

The cancer so developing or manifesting itself in these cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. This presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

CHAPTER 1039

An act to amend Section 5353 of the Public Utilities Code, and to add Section 34507.6 to the Vehicle Code, relating to carriers.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 5353 of the Public Utilities Code is amended to read:

5353. This chapter does not apply to any of the following:

(a) Transportation service rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance.

(b) Transportation of school pupils conducted by or under contract with the governing board of any school district entered into pursuant to the Education Code.

(c) Common carrier transportation services between fixed termini or over a regular route which are subject to authorization pursuant to Article 2 (commencing with Section 1031) of Chapter 5 of Part 1 of Division 1.

(d) Transportation services occasionally afforded for farm employees moving to and from farms on which employed when the transportation is performed by the employer in an owned or leased vehicle, or by a nonprofit agricultural cooperative association organized and acting within the scope of its powers under Chapter 1 (commencing with Section 54001) of Division 20 of the Food and Agricultural Code, and without any requirement for the payment of compensation therefor by the employees.

(e) Transportation service rendered by a publicly owned transit system.

(f) Passenger vehicles carrying passengers on a noncommercial enterprise basis.

(g) Taxicab transportation service licensed and regulated by a city or county, by ordinance or resolution, rendered in vehicles designed for carrying not more than eight persons excluding the driver.

(h) Transportation of persons between home and work locations or of persons having a common work-related trip purpose in a vehicle having a seating capacity of 15 passengers or less, including the driver, which are used for the purpose of ridesharing, as defined in Section 522 of the Vehicle Code, when the ridesharing is incidental to another purpose of the driver. This exemption also applies to a vehicle having a seating capacity of more than 15 passengers if the driver files with the commission evidence of liability insurance protection in the same amount and in the same manner as required for a passenger stage corporation, and the vehicle undergoes and passes an annual safety inspection by the Department of the California Highway Patrol. The insurance filing shall be accompanied by a one-time filing fee of seventy-five dollars ($75). This exemption does not apply if the primary purpose for the transportation of those persons is to make a profit. "Profit," as used in this subdivision, does not include the recovery of the actual costs incurred in owning and operating a vanpool vehicle, as defined in Section 668 of the Vehicle Code.

(i) Medical transportation vehicles, including vehicles employed to transport developmentally disabled persons for regional centers established pursuant to Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code.

(j) Transportation services rendered solely within the Lake Tahoe Basin, comprising that area included within the Tahoe Regional Planning Compact as set forth in Section 66801 of the Government Code, when the operator of the services has obtained any permit required from the Tahoe Basin Transportation Authority or the City of South Lake Tahoe, or both.

(k) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of an automobile rental business in vehicles owned or leased by that operator, without charge other than as may be included in the automobile rental charges, to carry its customers to or from its office or facility where rental vehicles are furnished or returned after the rental period.

(*l*) Subject to Section 34507.6 of the Vehicle Code, transportation service provided by the operator of a hotel, motel, or other place of temporary lodging in vehicles owned or leased by that operator, without charge other than as may be included in the charges for lodging, between the lodging facility and an air, rail, water, or bus passenger terminal or between the lodging facility and any place of entertainment or commercial attraction, including, but not limited to, facilities providing snow skiing. Nothing in this subdivision authorizes the operator of a hotel, motel, or other place of temporary

lodging to provide any round-trip sightseeing service without a permit, as required by subdivision (c) of Section 5384.

SEC. 2. Section 34507.6 is added to the Vehicle Code, to read:

34507.6. (a) Every operator of transportation service which is exempt from regulation as a charter-party carrier of passengers pursuant to subdivision (k) or (*l*) of Section 5353 of the Public Utilities Code, and which furnishes that transportation service in a bus, shall obtain a carrier identification number from the Department of the California Highway Patrol. Application for a carrier identification number shall be on a form furnished by the Department of the California Highway Patrol.

(b) (1) The carrier identification number so obtained by the operator shall be displayed on both sides of each bus used in that transportation service.

(2) The display of the carrier identification number shall be in sharp contrast to the background, and shall be of a size, shape, and color as to be readily legible during daylight hours from a distance of at least 50 feet.

(3) The carrier identification number shall be removed before the sale, transfer, or other disposal of the bus.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1040

An act to add and repeal Article 2.7 (commencing with Section 1228) of Chapter 1 of Part 2 of Division 2 of the Water Code, relating to water rights.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Article 2.7 (commencing with Section 1228) is added to Chapter 1 of Part 2 of Division 2 of the Water Code, to read:

Article 2.7. Registration of Small Use Domestic Appropriations

1228. This article shall be known and may be cited as the Water Rights Permitting Reform Act of 1988.

1228.1. (a) The Legislature finds and declares that it is in the public interest to provide a timely, efficient, and economic procedure for the acquisition of rights to appropriate water for a

small domestic use, including incidental stockwatering and irrigation uses, subject to prior rights.

(b) As used in this article, "small domestic use" means a domestic use, not to exceed direct diversion of 4500 gallons per day or diversion by storage of 10 acre-feet per annum, as that use is defined by board rule, and shall include impoundment for incidental aesthetic, recreational. or fish and wildlife purposes.

1228.2. (a) Subject to subdivision (b), any person may obtain a right to appropriate water for a small domestic use upon first registering the use with the board and thereafter applying the water to reasonable and beneficial use with due diligence, except that not more than one registration shall be in effect at any time for any facility.

(b) Initiation of rights to appropriate water pursuant to this article shall be subject to Article 1.3 (commencing with Section 1205), relating to fully appropriated stream systems. The board shall not accept any registration of water use which proposes as a source of water supply any stream system which has been unconditionally declared by the board to be fully appropriated pursuant to Section 1205, except that subdivision (b) of Section 1206, relating to conditional declarations of fully appropriated stream systems, shall apply to registration of water use pursuant to this article, and the board shall accept those registrations where consistent with the conditions specified in any such declaration.

(c) On or before June 30, 1989, and annually thereafter, the Division of Water Rights shall prepare and submit to the board a report summarizing the location, nature, and amount of water appropriated pursuant to this article. The report shall include a description of the availability of unappropriated water in those stream systems which may become fully appropriated within the next reporting period.

(d) Whenever it can be reasonably anticipated that a stream system may become fully appropriated within the next reporting period, the board shall, following notice and hearing, determine whether that stream system should be declared fully appropriated pursuant to Article 1.3 (commencing with Section 1205).

1228.3. (a) Registration of water use pursuant to this article shall be made upon a form prescribed by the board. The registration form shall set forth all of the following:

(1) The name and post office address of the registrant.

(2) The source of water supply.

(3) The nature and amount of the proposed use.

(4) The proposed place of diversion.

(5) The place where it is intended to use the water.

(6) The time for completion of construction of diversion works and for complete application of the water to the proposed use.

(7) A certification that the registrant has contacted a representative of the Department of Fish and Game designated by that department for that purpose, has provided information to that

department which is set forth in the registration form, and has agreed to comply with all lawful conditions, including, but not limited to, conditions upon the construction and operation of diversion works, required by the Department of Fish and Game.

(8) Any other information that may reasonably be required by the board.

(b) Registration of water use shall be deemed completed on the date that the form, executed in substantial compliance with the requirements of this section, and the registration fee specified in subdivision (a) of Section 1228.8 are received by the board.

(c) The board shall issue monthly a list of registrations filed under this article during the preceding calendar month. This list shall contain the information required by paragraphs (1) to (6), inclusive, of subdivision (a). The board shall mail the monthly list of registrations filed to any person who so requests.

1228.4. (a) Any completed registration of water use gives to the registrant a priority of right as of the date of completed registration to take and use the amount of water ultimately applied with due diligence to reasonable and beneficial use thereunder, which amount shall not exceed the amount of proposed use as shown on the registration form.

(b) Any right obtained pursuant to this article shall remain in effect unless and until any of the following occur:

(1) The right is forfeited for nonuse pursuant to Section 1241, or abandoned.

(2) The right is revoked because the registrant knowingly made any false statement, or knowingly concealed any material fact, in the registration.

(3) The right is revoked for failure to renew the registration as provided in this article.

(4) The right is revoked pursuant to subdivision (c) of Section 1228.6.

1228.5. (a) Registration of a small domestic use pursuant to this article shall be renewed prior to the expiration of each five-year period following completed registration.

(b) Renewal of registration shall be made upon a form prescribed by the board and shall contain such report of water use made pursuant to the registration as may be required by the board.

(c) The conditions established by the board pursuant to Section 1228.6 which are in effect at the time of renewal of registration shall supersede the conditions which were applicable to the original completed registration.

(d) Failure to renew registration in substantial compliance with the reporting requirements prescribed by the board within the time period specified in subdivision (a), or to pay the renewal fee specified in subdivision (b) of Section 1228.8, shall result by operation of law in the revocation of any right acquired pursuant to this article.

1228.6. (a) The board shall establish, and may from time to time revise, reasonable general conditions to which all appropriations

made pursuant to this article shall be subject. The conditions shall include, but shall not be limited to, the following:

(1) The appropriation is subject to prior rights.

(2) All conditions lawfully required by the Department of Fish and Game are conditions upon the appropriations.

(3) Diversion works shall be constructed and water applied to beneficial use with due diligence.

(4) Registration shall be renewed and water use reported pursuant to law and to the rules of the board.

(b) Immediately upon registration pursuant to Section 1228.3, renewal of registration pursuant to Section 1228.5, or amended registration pursuant to Section 1228.7, the board shall provide the registrant with a written document setting forth the conditions required by this section, and the perfection and exercise of rights acquired pursuant to this article shall at all times be subject to those conditions.

(c) The conditions required by this section shall be deemed "terms and conditions" within the meaning of Section 1825 and the expression of legislative intent contained in that section shall be applicable thereto. The authority of the board to enforce the terms and conditions of permits and licenses to appropriate water, and to prevent the unlawful diversion of water, including, but not limited to, provisions regarding cease and desist orders and the revocation of permits and licenses, shall be applicable to appropriations initiated or perfected pursuant to this article.

1228.7. (a) Any registrant may change the point of diversion or place of use by delivering to the board an amended registration form in accordance with Section 1228.3, including payment of the registration fee specified in subdivision (a) of Section 1228.8, except that the purpose of the use may not be changed and the change may not operate to the injury of any legal user of the water involved.

(b) Any completed amended registration of water use continues in effect the priority of right as of the date of the original completed registration.

(c) All provisions of this article regarding appropriations made pursuant thereto, including, but not limited to, provisions regarding enforcement, are applicable to the appropriation as described in the completed amended registration, except that the conditions established by the board pursuant to Section 1228.6 which are in effect at the time of completion of the amended registration shall supersede the conditions which were applicable to the original completed registration

1228 8. (a) Every person registering a small domestic use of water shall pay to the board a registration fee of one hundred dollars ($100).

(b) Every person renewing registration of a small domestic use of water shall pay to the board a renewal fee of fifty dollars ($50).

1228.9. With regard to a small domestic use of water, no right to appropriate or use water subject to appropriation shall be initiated

on and after January 1, 1989, except upon compliance with this article, and this article shall be the exclusive means of acquiring and maintaining that right. Nothing in this article shall be construed as affecting any right initiated or acquired pursuant to permit or evidenced by license, and including any application filed but not permitted, prior to January 1, 1989.

1229. The board shall submit a report not later than January 1, 1993, to the Governor and the Legislature which shall include, but not be limited to, the effect of the registration of small domestic use appropriations on the beneficial uses of the waters of the state and on the ability of the board to carry out its duties and responsibilities as the principal state agency with primary responsibility for the coordination and control of water quality and the administration of water rights.

1229.1. This article does not apply to those stream segments for which the Director of Fish and Game establishes proposed streamflow requirements pursuant to Section 10002 of the Public Resources Code, notwithstanding the July 1, 1989, deadline for preparation of the requirements.

1229.2. This article shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

CHAPTER 1041

An act to to amend, repeal and add Sections 66412.6 and 66499.35 of, and to add Section 66422 to, the Government Code, relating to land use.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 66412.6 of the Government Code is amended to read:

66412.6. (a) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if at the time of the creation of the parcel there was compliance with any local ordinance or there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(b) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of

land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Section 66499.35, the presumption declared in this subdivision shall not be operative.

(c) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 66412.6 is added to the Government Code, to read:

66412.6. (a) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if the parcel resulted from a division of land in which fewer than five parcels were created and if at the time of the creation of the parcel, there was no local ordinance in effect which regulated divisions of land creating fewer than five parcels.

(b) For purposes of this division or of a local ordinance enacted pursuant thereto, any parcel created prior to March 4, 1972, shall be conclusively presumed to have been lawfully created if any subsequent purchaser acquired that parcel for valuable consideration without actual or constructive knowledge of a violation of this division or the local ordinance. Owners of parcels or units of land affected by the provisions of this subdivision shall be required to obtain a certificate of compliance or a conditional certificate of compliance pursuant to Section 66499.35 prior to obtaining a permit or other grant of approval for development of the parcel or unit of land. For purposes of determining whether the parcel or unit of land complies with the provisions of this division and of local ordinances enacted pursuant thereto, as required pursuant to subdivision (a) of Section 66499.35, the presumption declared in this subdivision shall not be operative.

(c) This section shall become operative January 1, 1994.

SEC. 3. Section 66422 is added to the Government Code, to read:

66422. "Certificate of exception" means a valid authorization to subdivide land, issued by the County of Los Angeles pursuant to an ordinance thereof, adopted between September 22, 1967, and March 4, 1972, and which at the time of issuance did not conflict with this division or any statutory predecessor thereof.

SEC. 4. Section 66499.35 of the Government Code is amended to read:

66499.35. (a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local

ordinances enacted pursuant thereto. Upon making the determination, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of this division and of local ordinances enacted pursuant thereto. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant thereto, it shall issue a certificate of compliance or a conditional certificate of compliance. A local agency may, as a condition to granting a certificate of compliance, impose any conditions which would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at that time by this division or local ordinance enacted pursuant thereto, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of the division or local ordinances enacted pursuant thereto, then the local agency may impose any conditions which would be applicable to a current division of the property. Upon making the determination and establishing the conditions the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of these conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with these conditions shall not be required until the time which a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, official map, or an approved certificate of exception shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be

filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 5. Section 66499.35 is added to the Government Code, to read:

66499.35. (a) Any person owning real property or a vendee of that person pursuant to a contract of sale of the real property may request, and a local agency shall determine, whether the real property complies with the provisions of this division and of local ordinances enacted pursuant thereto. Upon making the determination, the city or the county shall cause a certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate of compliance shall identify the real property and shall state that the division thereof complies with applicable provisions of this division and of local ordinances enacted pursuant thereto. The local agency may impose a reasonable fee to cover the cost of issuing and recording the certificate of compliance.

(b) If a local agency determines that the real property does not comply with the provisions of this division or of local ordinances enacted pursuant thereto, it shall issue a certificate of compliance or a conditional certificate of compliance. A local agency may, as a condition to granting a certificate of compliance, impose such conditions as would have been applicable to the division of the property at the time the applicant acquired his or her interest therein, and which had been established at such time by this division or local ordinance enacted pursuant thereto, except that where the applicant was the owner of record at the time of the initial violation of the provisions of this division or of local ordinances enacted pursuant thereto who by a grant of the real property created a parcel or parcels in violation of this division or local ordinances enacted pursuant thereto, and the person is the current owner of record of one or more of the parcels which were created as a result of the grant in violation of the division or local ordinances enacted pursuant thereto, then the local agency may impose any conditions which would have been applicable to a current division of the property. Upon making the determination and establishing the conditions the city or county shall cause a conditional certificate of compliance to be filed for record with the recorder of the county in which the real property is located. The certificate shall serve as notice to the property owner or vendee who has applied for the certificate pursuant to this section, a grantee of the property owner, or any subsequent transferee or assignee of the property that the fulfillment and implementation of the conditions shall be required prior to subsequent issuance of a permit or other grant of approval for development of the property.

Compliance with these conditions shall not be required until the time which a permit or other grant of approval for development of the property is issued by the local agency.

(c) A certificate of compliance shall be issued for any real property which has been approved for development pursuant to Section 66499.34.

(d) A recorded final map, parcel map, or official map shall constitute a certificate of compliance with respect to the parcels of real property described therein.

(e) An official map prepared pursuant to subdivision (b) of Section 66499.52 shall constitute a certificate of compliance with respect to the parcels of real property described therein and may be filed for record, whether or not the parcels are contiguous, so long as the parcels are within the same section or, with the approval of the city engineer or county surveyor, within contiguous sections of land.

(f) This section shall become operative January 1, 1994.

CHAPTER 1042

An act to add Article 60.5 (commencing with Section 20920) to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, and to add Section 50907 to the Water Code, relating to reclamation districts.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Article 60.5 (commencing with Section 20920) is added to Chapter 1 of Part 3 of Division 2 of the Public Contract Code, to read:

Article 60.5. Reclamation Districts

20920. This article applies to contracts by reclamation districts formed under special acts of the Legislature or under Division 15 (commencing with Section 50000) of the Water Code or any district which is otherwise authorized to act under that division.

20921. All contracts for any improvement or unit of work, or for materials or supplies, in excess of twenty-five thousand dollars ($25,000) shall be let to the lowest responsive, responsible bidder, except as otherwise provided in this article.

20922. It is unlawful to split or separate into smaller work orders or projects for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

20923. The board shall advertise for bids by at least two insertions, not less than five days apart, in a newspaper of general circulation

circulated within the district, or if there is none, shall post notice at least 10 days before the date of opening of bids in at least three public places in the district that have been designated by resolution of the district as the places for posting public notices. The notice inviting sealed bids shall state the proposed improvement or work and shall set a date for opening of bids.

20924. Notwithstanding any other provision of law, whenever a district participates in any federal or state assistance program, the district shall comply with the procurement requirements of that program to the extent that the requirements are more restrictive than those set forth in this article.

20925. The board shall have the right to reject any and all bids not suitable to the best interests of the district. In its discretion, the board may readvertise for new bids or negotiate an offered bid, if it is the sole bid received and the negotiated price does not exceed the offered bid for the work as advertised. If two or more bids are the same and are the lowest, the district board may accept the one it chooses. If no bids are received, the district board may proceed to complete the project by force account or contract without further compliance with this article.

20926. In the event of any emergency due to causes including, but not limited to, winds, storms, highwater, or impending levee failure, whose urgency makes compliance with the procedures set forth in Section 20923 unreasonable or impractical, the board may, by unanimous vote of those present at any meeting or participating by telephone or other means of communication in a meeting called with or without notice, negotiate and award a contract for construction of work to prevent damage or repair damaged works without advertising for bids and expend any sum reasonably required in the emergency, when that work is necessary in order to protect life and property from imminent extensive damage. If a majority of the board cannot be contacted to participate in the meeting, any trustee may authorize emergency work contracted on behalf of the district by an authorized agent of the district, provided that the action is subsequently ratified by a majority vote of the board.

Notwithstanding any other provision of this section, the board or any trustee authorizing or contracting for work in an emergency shall, if practicable, informally solicit bids or requests for proposals to seek to obtain the best terms possible, including the lowest price term, given the urgent circumstances of the emergency, and, promptly after the emergency ends, shall document the circumstances of the emergency and the bid or proposal accepted.

Work to further reconstruct or rehabilitate damaged works after the emergency ends shall be subject to the requirements of this article.

20927. The limitations set forth in Section 20921 may be exceeded to a maximum of fifty thousand dollars ($50,000) for projects and purchases of materials for projects for which no assistance from

federal, state, or other local governmental agencies is requested, if that approval is secured from the landowners of the district representing at least two-thirds of the assessment valuation of the district, or if no assessment has been collected within the prior year, by the landowners representing at least two-thirds of the acreage within the district. The approval may be obtained either through a special election held for that purpose or by written consent of the approving landowners. The special election may be conducted by mail ballot.

SEC. 2. Section 50907 is added to the Water Code, to read:

50907. All districts formed under this division or under a special act of the Legislature and authorized to act, under this division, shall be subject to the requirements for competitive bidding under Article 60.5 (commencing with Section 20920) of Chapter 1 of Part 3 of Division 2 of the Public Contract Code.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1043

An act to amend Sections 1812.50, 1812.51, 1812.52, 1812.53, 1812.54, 1812.55, 1812.56, 1812.57, 1812.59, 1812.60, 1812.63, 1812.64, 1812.65, and 1812.67 of, to amend the heading of Title 2.4 (commencing with Section 1812.50) of Part 4 of Division 3 of, and to repeal Section 1812.51a of, the Civil Code, relating to dance studios.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The heading of Title 2.4 (commencing with Section 1812.50) of Part 4 of Division 3 of the Civil Code is amended to read:

TITLE 2.4. CONTRACTS FOR DANCE STUDIO LESSONS AND OTHER SERVICES

SEC. 2. Section 1812.50 of the Civil Code is amended to read:

1812.50. (a) The Legislature finds that there exists in connection with a substantial number of contracts for dance studio lessons and other services, sales practices, and business and financing methods which have worked a fraud, deceit, imposition, and financial hardship upon the people of this state; that existing legal remedies are inadequate to correct these abuses; that the dance studio industry has a significant impact upon the economy and well-being of this

state and its local communities; and that the provisions of this title relating to these contracts are necessary for the public welfare.

(b) The Legislature declares that the purpose of this title is to safeguard the public against fraud, deceit, imposition, and financial hardship, and to foster and encourage competition, fair dealing, and prosperity in the field of dance studio lessons and other services by prohibiting or restricting false or misleading advertising, onerous contract terms, harmful financial practices, and other unfair, dishonest, deceptive, destructive, unscrupulous, fraudulent, and discriminatory practices by which the public has been injured in connection with contracts for dance studio lessons and other services.

SEC. 3. Section 1812.51 of the Civil Code is amended to read:

1812.51. As used in this title, "contract for dance studio lessons and other services" means a contract for instruction in ballroom or other types of dancing, and includes lessons and other services, whether given to students individually or in groups. This title does not include contracts for professional services rendered or furnished by a person licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or contracts for instruction at schools operating pursuant to the Education Code.

SEC. 4. Section 1812.51a of the Civil Code is repealed.

SEC. 5. Section 1812.52 of the Civil Code is amended to read:

1812.52. Every contract for dance studio lessons and other services shall be in writing and shall be subject to this title. A copy of the written contract shall be given to the customer at the time he or she signs the contract.

SEC. 6. Section 1812.53 of the Civil Code is amended to read:

1812.53. (a) No contract for dance studio lessons and other services shall require payment by the person receiving the lessons and other services or the use of the facilities of a total amount in excess of three thousand seven hundred fifty dollars ($3,750).

(b) No contract for dance studio lessons and other services shall require payments or financing by the buyer over a period in excess of two years from the date the contract is entered into, nor shall the term of any such contract be measured by the life of the buyer. However, the lessons and other services to be rendered to the buyer under the contract may extend over a period not to exceed seven years from the date the contract is entered into.

(c) All contracts for dance studio lessons and other services which may be in effect between the same seller and the same buyer, the terms of which overlap for any period, shall be considered as one contract for the purposes of this title.

SEC. 7. Section 1812.54 of the Civil Code is amended to read:

1812.54. (a) Every contract for dance studio lessons and other services shall provide that performance of the agreed-upon lessons will begin within 12 months from the date the contract is entered into.

(b) Every contract for dance studio lessons and other services shall further provide all of the following:

(1) That the contract may be canceled within 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and all moneys paid pursuant to the contract shall be refunded within 10 days of receipt of the notice of cancellation, except that payment shall be made for any dance studio lessons and other services received prior to the cancellation.

(2) That the contract may be canceled after 180 days after the date of receipt by the customer of a copy of the contract by written notice to the other party at the address specified in the contract, and the student canceling the contract shall be thereafter entitled to a refund, within 10 days of receipt by the dance studio of notice of cancellation. of all moneys paid pursuant to the canceled contract with the exception that the dance studio shall be entitled to 10 percent of the unpaid balance pursuant to the terms of the canceled contract, and except further that, in addition to the foregoing, payment shall be made for any dance studio lessons and other services received prior to the cancellation.

(c) Every contract for dance studio lessons and other services shall contain a written statement of the hourly rate charged for each type of lesson for which the student has contracted. If the contract includes dance studio lessons which are sold at different per-hour rates, the contract shall contain separate hourly rates for each different type of lesson sold. All other services for which the student has contracted which are not capable of a per-hour charge shall be set forth in writing in specific terms. The statement shall be contained in the dance studio contract before the contract is signed by the buyer.

(d) Every dance studio subject to Sections 1812.64 to 1812.66, inclusive, shall include in every contract for dance studio lessons or other services a statement that the studio is bonded and that information concerning the bond may be obtained by writing to the office of the Secretary of State, 1230 J Street, Sacramento, California 95814. If the studio has elected to make a cash deposit in lieu of procuring a bond, the contract shall contain a description of the cash deposit.

SEC. 8. Section 1812.55 of the Civil Code is amended to read:

1812.55. No contract for dance studio lessons and other services shall require or entail the execution of any note or series of notes by the buyer which, when separately negotiated, will cut off as to third parties any right of action or defense which the buyer may have against the seller.

SEC. 9. Section 1812.56 of the Civil Code is amended to read:

1812.56. No right of action or defense arising out of a contract for dance studio lessons and other services which the buyer has against the seller and which would be cut off by assignment, shall be cut off by assignment of the contract to any third party whether or not he or she acquires the contract in good faith and for value unless the assignee gives notice of the assignment to the buyer as provided in

this section and, within 30 days of the mailing of notice, receives no written notice of the facts giving rise to the claim or defense of the buyer. A notice of assignment shall be in writing addressed to the buyer at the address shown on the contract and shall identify the contract and inform the buyer that he or she shall, within 30 days of the date of mailing of the notice, notify the assignee in writing of any facts giving rise to a claim or defense which he or she may have. The notice of assignment shall state the name of the seller and buyer, a description of the lessons and other services, the contract balance, and the number and amount of the installments.

SEC. 10. Section 1812.57 of the Civil Code is amended to read:

1812.57. (a) Every contract for dance studio lessons and other services shall contain a clause providing that if, by reason of death or disability, the person agreeing to receive lessons and other services is unable to receive all lessons and other services for which he or she has contracted, the person and his or her estate shall be relieved from the obligation of making payment for lessons and other services other than those received prior to death or the onset of disability, and that if the buyer has prepaid any sum for lessons and other services so much of that sum as is allocable to lessons and other services he or she has not taken shall be promptly refunded to the buyer or his or her representative.

(b) Notwithstanding the provisions of any contract to the contrary, whenever the contract price is payable in installments and the buyer is relieved from making further payments or entitled to a refund under this section, the buyer shall be entitled to receive a refund or refund credit of so much of the cash price as is allocable to the lessons or other services not actually received by the buyer. The refund of the finance charge shall be computed according to the "sum of the balances method," also known as the "Rule of 78".

SEC. 11. Section 1812.59 of the Civil Code is amended to read:

1812.59. Any contract for dance studio lessons and other services which does not comply with the applicable provisions of this title shall be void and unenforceable as contrary to public policy.

SEC. 12. Section 1812.60 of the Civil Code is amended to read:

1812.60. Any contract for dance studio lessons and other services entered into in reliance upon any willful and false, fraudulent, or misleading information, representation, notice, or advertisement of the seller shall be void and unenforceable.

SEC. 13. Section 1812.63 of the Civil Code is amended to read:

1812.63. Any person who violates any provision of this title relating to dance studio contracts is guilty of a misdemeanor. Any superior court of this state has jurisdiction in equity to restrain and enjoin the violation of any of the provisions of this title relating to dance studio contracts.

The duty to institute actions for violation of those provisions of this title, including equity proceedings to restrain and enjoin violations, is hereby vested in the Attorney General, district attorneys, and city attorneys. The Attorney General, any district attorney, or any city

attorney may prosecute misdemeanor actions or institute equity proceedings, or both.

This section shall not be deemed to prohibit the enforcement by any person of any right provided by this or any other law.

SEC. 14. Section 1812.64 of the Civil Code is amended to read:

1812.64. Every dance studio shall maintain a bond issued by a surety company admitted to do business in this state. The principal sum of the bond shall be 25 percent of the dance studio's gross income from the studio business in this state during the studio's last fiscal year, except that the principal sum of the bond shall not be less than ten thousand dollars ($10,000) in the first or any subsequent year of operation.

A copy of the bond shall be filed with the Secretary of State, together with a declaration under penalty of perjury signed by the owner of the studio stating the dance studio's gross income from the dance studio business in this state during the last fiscal year. The information contained in the declaration shall not be subject to public inspection. If the person in whose name the bond is issued severs his or her relationship with the bonded dance studio, the new owner shall, as a condition of doing business, notify the Secretary of State of the change of ownership and of proof of compliance with Sections 1812.64 to 1812.66, inclusive.

SEC. 15. Section 1812.65 of the Civil Code is amended to read:

1812.65. The bond required by Section 1812.64 shall be in favor of the State of California for the benefit of any person who, after entering into a contract for dance studio lessons and other services with the dance studio, is damaged by fraud or dishonesty or failure to provide the services of the studio in performance of the contract.

SEC. 16. Section 1812.67 of the Civil Code is amended to read:

1812.67. (a) Sections 1812.64 and 1812.65 do not apply to any dance studio which requires or receives less than fifty dollars ($50) in advance payments from or on behalf of each student for dance studio lessons or other services which are to be rendered by the studio in the future and such advance payments are not required or received by the studio from each student more frequently than once every 30 days.

(b) Sections 1812.53, 1812.54, 1812.64, and 1812.65 do not apply to a dance studio which only offers instruction in ballet, modern, jazz, tap dance, or any combination thereof, to persons under 21 years of age pursuant to a contract for dance studio lessons that provides all of the following: (1) a total payment of less than five hundred dollars ($500), (2) that all agreed-upon lessons will be offered within four months from the date the contract is entered, and (3) that the contract may be canceled and all money paid for instruction not yet received will be refunded within 10 days of cancellation, if the dance student cancels within three days after receiving the first lesson, or if the dance student cancels at any time after moving his or her residence to a location more than 15 miles from the location of the dance studio.

(c) Sections 1812.53, 1812.54, 1812.64, and 1812.65 do not apply to any organization that has qualified for a tax exemption under Section 501 (c) (3) of the Internal Revenue Code and which receives a direct grant of funds from the California Arts Council.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1044

An act to amend Sections 3411 and 3417 of, and to add Section 7003.5 to, the Penal Code, relating to correctional facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 3411 of the Penal Code is amended to read:

3411. The Department of Corrections shall on or before January 1, 1980, establish and implement a community treatment program under which women inmates sentenced to state prison pursuant to Section 1168 or 1170 who have one or more children under the age of six years, whether born prior to or after January 1, 1976, shall be eligible to participate within the provisions of this section. The community treatment program shall provide for the release of the mother and child or children to a public or private facility in the community suitable to the needs of the mother and child or children, and which will provide the best possible care for the mother and child. In establishing and operating such program, the department shall have as a prime concern the establishment of a safe and wholesome environment for the participating children.

SEC. 2. Section 3417 of the Penal Code is amended to read:

3417. (a) Subject to reasonable rules and regulations promulgated pursuant to Section 3414, the Department of Corrections shall admit to the program any applicant whose child was born prior to the receipt of the inmate by the department, if all of the following requirements are met:

(1) The applicant has a probable release or parole date with a maximum time to be served of six years, calculated after deduction of any possible good time credit.

(2) The applicant was the primary caretaker of the infant prior to incarceration. "Primary caretaker" as used in this chapter means a parent who has consistently assumed responsibility for the housing,

health, and safety of the child prior to incarceration. A parent who, in the best interests of the child, has arranged for temporary care for the child in the home of a relative or other responsible adult shall not for that reason be excluded from the category, "primary caretaker."

(3) The applicant had not been found to be an unfit parent in any court proceeding. An inmate applicant shall not be denied the opportunity to participate in the program based in whole or in part on a determination that she is an unfit mother unless that decision is made pursuant to Section 232 of the Civil Code, Section 2625, or Section 300 of the Welfare and Institutions Code.

(b) The Department of Corrections shall deny placement in the community treatment program if it determines that an inmate would pose an unreasonable risk to the public, or if any one of the following factors exist, except in unusual circumstances or if mitigating circumstances exist, including, but not limited to, the remoteness in time of the commission of the offense:

(1) The inmate has been convicted of any of the following:

(A) A sex offense listed in Section 667.6.

(B) A sex offense requiring registration pursuant to Section 290.

(C) A violent offense listed in subdivision (c) of Section 667.5.

(D) Arson as defined in Sections 450 to 455, inclusive.

(E) The unlawful sale or possession for sale, manufacture, or transportation of controlled substances as defined in Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code, if large scale for profit as defined by the department.

(2) There is probability the inmate may abscond from the program as evidenced by any of the following:

(A) A conviction of escape or of aiding another person to escape, or an attempt to escape from a jail or prison.

(B) The presence of an active detainer from a law enforcement agency, unless the detainer is based solely upon warrants issued for failure to appear on misdemeanor Motor Vehicle Code violations.

(4) It is probable the inmate's conduct in a community facility will be adverse to herself or other participants in the program, as determined by the Director of Corrections or as evidenced by any of the following:

(A) The inmate's removal from a community program which resulted from violation of state laws, rules, or regulations governing Department of Corrections inmates.

(B) A finding of the inmate's guilt of a serious rule violation, as defined by the Director of Corrections, which resulted in a credit loss on one occasion of 91 or more days or in a credit loss on more than one occasion of 31 days or more and the credit has not been restored.

(C) A current written opinion of a staff physician or psychiatrist that the inmate's medical or psychiatric condition is likely to cause an adverse effect upon the inmate or upon other persons if the inmate is placed in the program.

(c) Nothing in this section shall be interpreted to limit the discretion of the Director of Corrections to deny or approve

placement when the provisions of subdivision (b) do not apply.

(d) The Department of Corrections shall determine if the applicant meets the requirements of this section within 30 days of the parent's application to the program. The department shall establish an appeal procedure for the applicant to appeal an adverse decision by the department.

(e) The department may, in its discretion, admit a pregnant inmate to the program prior to the birth of the child if it determines that the admission would otherwise comply with the requirements of this chapter, and there is space available.

SEC. 3. Section 7003.5 is added to the Penal Code, to read:

7003.5. (a) The department shall provide the Joint Legislative Committee on Prison Construction and Operations with periodic reports on the progress of site selection for new prison facilities.

(b) On January 1 and July 1 of each year, the department shall report to the Joint Legislative Committee on Prison Construction and Operation on areas being considered for proposed prison facilities, the size of the facilities planned, financing, and how each facility fits into the department's master plan insofar as this information is available to the department at the time the report is presented to the committee. The report shall also include the status of each proposed prison, and sites being planned for preliminary studies if known at that time.

(c) The committee may take appropriate advisory action concerning any submittals required by this section.

(d) This section applies to regular prison facilities, major enlargements of existing facilities, prison hospital construction and expansion, and return to custody facilities, whether or not built or operated exclusively by the department.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the efficient operation of the state's correctional facilities and to provide for legislative oversight, it is necessary that this act take effect immediately.

CHAPTER 1045

An act to amend Section 308 of the Penal Code, relating to tobacco products.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 308 of the Penal Code is amended to read:

308. (a) Every person, firm or corporation which knowingly sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is subject to either a criminal action for a misdeameanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars ($200) for the first offense, five hundred dollars ($500) for the second offense, and one thousand dollars ($1,000) for the third offense.

Notwithstanding Section 1464 or any other provision of law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b).

Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the armed forces.

For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco vending machine will be utilized by minors.

(b) Every person under the age of 18 years who purchases or receives any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia

that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of fifty dollars ($50) or 25 hours of community service work.

(c) Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of ten dollars ($10) for the first offense and fifty dollars ($50) for each succeeding violation of this provision, or by imprisonment for not more than 30 days.

The Secretary of State is hereby authorized to have printed sufficient copies of this act to enable him or her to furnish dealers in tobacco with copies thereof upon their request for the same.

(d) For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

(e) It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1046

An act to amend Sections 21211, 21367.6, and 21370 of, to add Sections 21204.5, 21211.1, 21211.2, 21211.3, 21211.4, 21211.5, and 21211.6 to, and to repeal Section 21369 of, the Government Code, relating to the Public Employees' Retirement System, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature in enacting this act to enable the Board of Administration of the Public Employees' Retirement System to distribute death benefit payments expeditiously and in a manner that minimizes conflicts with the Probate Code in order to avoid the delays and confusion associated with the payment of death benefits. Where there is a conflict

between the provisions of the Public Employees' Retirement Law relating to payment by the Public Employees' Retirement System of death benefits and the Probate Code, the provisions of this act shall govern the distribution of death benefits by the Public Employees' Retirement System.

SEC. 2. Section 21204.5 is added to the Government Code, to read:

21204.5. A person who is entitled to receive a monthly allowance as a survivor of a deceased person may designate a beneficiary to receive the pro rata allowance payable following his or her death. The beneficiary designation shall be filed by the survivor with the board in writing in order to be effective, and the designation shall be subject to all laws applicable to designations of beneficiaries. A survivor may revoke his or her beneficiary designation at any time. A beneficiary designation by a survivor shall not be subject to the automatic revocation of designation provisions of Section 21205.

SEC. 3. Section 21211 of the Government Code is amended to read:

21211. (a) If a person had no beneficiary designation in effect on the date of death, any benefit payable shall be paid to the survivors of the person in the following order:

(1) The decedent's spouse.

(2) The decedent's natural or adopted children, including a natural child adopted by another.

(3) The decedent's parents.

(4) The decedent's brothers and sisters.

(b) If a deceased person had no effective beneficiary designation and there are no survivors in the groups specified in subdivision (a) who are entitled to the benefit under this section, the benefit shall be paid to the estate of the decedent, if the estate is either probated or subject to probate. Any benefit payable by this system may be paid either to the estate or to the duly authorized representative or representatives of the estate upon receipt by the system of a court order appointing an executor, administrator, or personal representative.

(c) If the estate of the person described by subdivision (b) does not require probate, irrespective of whether probate is filed, the benefit shall be paid directly to the surviving next of kin in the following order:

(1) Stepchildren.

(2) Grandchildren, including stepgrandchildren.

(3) Nieces and nephews.

(4) Great grandchildren.

(5) Cousins.

(d) For purposes of determining the application of subdivisions (b) and (c), the amount of the benefit payable from the Public Employees' Retirement System shall not be included in calculating the worth of the estate.

(e) For purposes of this section, the term "stepchild" shall mean

a person who had a regular parent-child relationship with the deceased person.

SEC. 4. Section 21211.1 is added to the Government Code, to read:

21211.1. If, upon the death of a person there is a valid beneficiary designation on file with the board naming the decedent's estate as beneficiary, and the estate will be probated, benefits shall be paid to the estate or to the duly authorized representative or representatives of the estate upon receipt by the system of a court order appointing an executor, administrator, or personal representative.

If the deceased person had a will, but the estate does not require probate, benefits may, in the judgment of the board, be paid to the beneficiary or beneficiaries, as specified in the will, notwithstanding any other provision of law.

If the deceased person left no will and the estate does not require probate, but the decedent designated his or her estate as the beneficiary, the benefit shall be paid to the next of kin pursuant to Section 21211.

SEC. 5. Section 21211.2 is added to the Government Code, to read:

21211.2. (a) Payment of any benefit shall not be made to those persons covered by Section 21211 if there are eligible recipients who are living members of a higher ranking class of beneficiaries as set forth in that section.

(b) Payments made pursuant to Section 21211, 21211.1, or 21367.6, upon the board's good faith determination of entitlement based on satisfactory evidence of entitlement, shall constitute a complete discharge and release of the system from liability for those payments.

SEC. 6. Section 21211.3 is added to the Government Code, to read:

21211.3. The board's good faith determination of entitlement to payment pursuant to Section 21211, 21211.1, or 21367.6 shall be based upon such evidence as a death certificate, marriage certificate, or birth certificate for persons in a higher ranking group of statutory beneficiaries. However, where such evidence is not available, the board may accept a sworn statement by one claiming to be a beneficiary that there are no living individuals in any of the higher ranking groups of statutory beneficiaries, that the estate does not require probate, or that the relationship of the claimant to the decedent is as claimed.

SEC. 7. Section 21211.4 is added to the Government Code, to read:

21211.4. If the total value of the benefit to be paid pursuant to Section 21211, 21211.1, or 21367.6 is fifty dollars ($50) or less, the benefit may be paid to the first member of the entitled class of beneficiaries who files a claim. If the total value of the benefit pursuant to any of these sections exceeds fifty dollars ($50), but the number of qualifying beneficiaries under these sections is such that any individual benefit will be less than ten dollars ($10), the board

shall limit the number of beneficiaries such that no individual's benefit will be less than ten dollars ($10). The board shall determine such recipients on the basis of the order in which claims are made.

SEC. 8. Section 21211.5 is added to the Government Code, to read:

21211.5. The board may fix such time as it deems reasonable during which claims for benefits pursuant to Sections 21211, 21211.1, and 21367.6 may be made, provided, that anyone who is provided a claim form is given the same amount of time in which to file it as any other claimant. The board shall have no duty to identify or locate any member of any class of beneficiaries.

SEC. 9. Section 21211.6 is added to the Government Code, to read:

21211.6. (a) Notwithstanding Section 21211.5, when either an initial payment of a preretirement or postretirement death allowance or a preretirement or postretirement lump-sum benefit is payable in an amount of ten dollars ($10) or more, it shall be authorized to the Controller within 45 days of receipt by the system of all the necessary information, including the return of warrants issued or any overpayment outstanding after the date of the death of the annuitant.

(b) If any such payment is not made within that time limitation, the payment shall also include interest at the net earnings rate (including capital gains and losses) in effect at the time the payment is made, for time following the expiration of that time limitation.

(c) The system shall submit annually, commencing with the 1990–91 fiscal year and as part of the report required by Section 20140, to the Legislature and the Governor a summary of the experience of the system in making payments pursuant to subdivision (b).

SEC. 10. Section 21367.6 of the Government Code is amended to read:

21367.6. Any monthly allowance payable to a person, which had accrued and remained unpaid at the time of his or her death, or any uncashed warrant issued prior to the date of death of such a person that has been returned to the system, shall be paid in the following order:

(a) In the event of the death of a retired person, to one of the following:

(1) The beneficiary entitled to payment in accordance with an optional settlement chosen by the member.

(2) The survivor entitled to payment of the survivor continuance benefit provided under Section 21263.

(3) The beneficiary entitled to receive the lump-sum death benefit provided upon death of a retired person if the person had not chosen an optional settlement and there was no survivor who was entitled to receive the survivor continuance benefit.

(b) In the event of the death of a person receiving a survivor benefit, that benefit shall be paid to the beneficiary designated by

the survivor of a member under Section 21204.5.

(c) If there is no beneficiary entitled to receive payment under either subdivision (a) or (b), the benefit shall be paid to either the estate of the deceased person or the duly authorized representative or representatives of the estate upon receipt by the system of a court order appointing an executor, administrator, or personal representative.

(d) In the event there is no beneficiary entitled to receive payment of benefits under subdivision (a), (b), or (c), the benefits shall be paid to the surviving next of kin of the person pursuant to the order of distribution specified in Section 21211.

SEC. 11. Section 21369 of the Government Code is repealed.

SEC. 12. Section 21370 of the Government Code is amended to read:

21370. If any benefit is payable by this system to the estate of a deceased person, and the estate would not be probated if no amount were due from this system, but there is no surviving person in any of the groups specified in Section 21211 or 21211.1, or if no beneficiary can be found by the board, the board may in its discretion pay expenses of the disposition of the body as evidenced by itemized statements or documents as the board may require. Payment may not exceed the amount payable under this system to the estate or beneficiary. Payment so made is a full discharge of the board and system for the amount so paid.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that claims that remain unpaid due to confusion over the authority of the Public Employees' Retirement System to make payment to estates may be paid at the earliest possible time, and to assure that the intentions of decedents are honored at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1047

An act to amend Section 1275.1 of the Health and Safety Code, and to amend Section 5750 of, and to amend and repeal Section 5652.5 of, the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that many areas of the state do not now have adequate acute 24-hour, inpatient care

facilities for the mentally disordered, that these services can be provided effectively in facilities which do not meet the building and space standards of hospitals and settings which do not require the staffing, support services and administrative patterns of hospitals, and that acute care for the mentally disordered can be provided for less cost by both public services and in the private sector through the establishment of psychiatric health facilities.

SEC. 2. Section 1275.1 of the Health and Safety Code is amended to read:

1275.1. (a) Notwithstanding any rules or regulations governing other health facilities, the regulations developed by the State Department of Mental Health for psychiatric health facilities shall prevail. The regulations applying to psychiatric health facilities shall prescribe standards of adequacy, safety, and sanitation of the physical plant, of staffing with duly qualified licensed personnel, and of services based on the needs of the persons served thereby.

(b) The regulations shall include standards appropriate for two levels of disorder:

(1) Involuntary ambulatory psychiatric patients.

(2) Voluntary ambulatory psychiatric patients.

For purposes of this subdivision, "ambulatory patients" shall include, but not be limited to, deaf, blind, and physically handicapped persons. Disoriented persons who are not bedridden or confined to a wheelchair shall also be considered as ambulatory patients.

(c) The regulations shall not require, but may permit building and services requirements for hospitals which are only applicable to physical health care needs of patients that can be met in an affiliated hospital or in outpatient settings including, but not limited to, such requirements as surgical, dietary, laboratory, laundry, central supply, radiologic, and pharmacy.

(d) The regulations shall include provisions for an "open planning" architectural concept.

(e) The regulations shall exempt from seismic requirements all structures of Type V and of one-story construction.

(f) Standards for involuntary patients shall include provisions to allow for restraint and seclusion of patients. Such standards shall provide for adequate safeguards for patient safety and protection of patient rights.

(g) The regulations shall provide for the retention by the psychiatric health facility of a consultant pharmacist, who shall supervise and review pharmaceutical services within the facility and perform such other services, including prevention of the unlawful diversion of controlled substances subject to abuse, as the state department may by regulation require. Regulations adopted pursuant to this subdivision shall take into consideration the varying bed sizes of psychiatric health facilities.

SEC. 3. Section 5652.5 of the Welfare and Institutions Code is amended to read:

5652.5. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for such facility and a description of the services to be provided. The local mental health director shall then submit to the governing body such explanation and description in the form of an amendment to the county Short-Doyle plan. The governing body, upon its approval of the amendment, may submit the amendment and application to the State Department of Mental Health.

(2) Other organizations that seek to apply for licensure and do not intend to use any Short-Doyle funds pursuant to Section 5707 shall submit their approval requests to the governing body in the county in which the facility is to be located. The governing body shall have 30 days during which to make recommendations on the applications. At any time after such 30-day period, the organizations may then submit their applications, along with the governing body's recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to assure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to assure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) The program aspects of a psychiatric health facility which shall be approved by the State Department of Mental Health shall include, but not be limited to, staffing standards, psychiatrist and clinical psychologist services, social work services, rehabilitation services, nursing services, pharmaceutical services, activities programs, space, supplies, and equipment, administrative policies and procedures, patient rights, admissions, unusual occurrences, restraint and seclusion, interdisciplinary treatment teams, use of outside resources including agreements with general acute care hospitals, health records service, health records content, program space requirements, and discharge planning. The State Department of Mental Health has sole authority to grant program flexibility.

(f) The State Department of Mental Health shall adopt

regulations which shall include, but not be limited to, the following:

(1) Procedures by which the State Department of Mental Health shall approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall deny approval or approve, the program and facility licensed as a psychiatric health facility pursuant to Section 5652.5.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to establish innovative and more competitive acute care services as alternatives to hospital care. The State Department of Mental Health shall approve the program aspects only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital. In using these guidelines, the department shall take into account local conditions affecting the costs or charges.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) Proposed changes in the standards or regulations affecting health facilities which serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(k) In psychiatric health facilities where the clinical director is not a physician. a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services which can only be provided by, or under the direction of, a physician.

(*l*) This section shall become inoperative on July 1, 1993, and as of January 1, 1994, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer

this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public health and safety by expediting the licensure and development of psychiatric health facilities in both public mental health programs and in the private sector, it is necessary that this act take effect immediately.

CHAPTER 1048

An act to add Sections 51264 and 51265 to the Education Code, relating to educational in-service training programs.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 51264 is added to the Education Code, to read:

51264. (a) The State Department of Education shall prepare and distribute to school districts and county offices of education, no later than February 15, 1989, guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for

teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) The department shall consult with the Office of Criminal Justice Planning regarding gang violence.

(e) On or before August 15 of each year, the department shall report to the Legislative Analyst and the fiscal, education, and the appropriate select committees of each house of the Legislature, on the status of gang violence and drug and alcohol abuse prevention in-service training programs provided by school districts and county offices of education.

SEC. 2. Section 51265 is added to the Education Code, to read:

51265. It is the intent of the Legislature that school districts and county offices of education give high priority to gang violence and drug and alcohol abuse prevention in-service training programs, which shall be part of the overall strategy for comprehensive gang violence and drug and alcohol abuse prevention education.

"Gang violence and drug and alcohol abuse prevention in-service training" for purposes of this article means the presentation of programs, instruction and curricula that will help educators develop competencies in interacting in a positive manner with children and youth to assist them in developing the positive values, self-esteem, knowledge, and skills to lead productive, gang-free and drug-free lives; develop knowledge of the causes of gang violence and substance abuse, and the properties and effects of tobacco, alcohol, narcotics, and dangerous drugs, including the risk of contracting acquired immune deficiency syndrome (AIDS) associated with intravenous drug use; receive training regarding available information and resources concerning gang violence and drug and alcohol abuse prevention as well as antigang and antisubstance abuse crime trends; develop familiarity with teaching social skills and resistance skills to children and youth; and develop skills in

conducting effective education, which includes methods and techniques for helping children and youth to freely express ideas and opinions in a responsible manner and to understand the nature and consequences of their decisions as they relate to gang involvement and drug and alcohol abuse.

CHAPTER 1049

An act to amend Section 1373.14 of the Health and Safety Code, and to amend Sections 10123.16, 10123.17, and 11512.177 of the Insurance Code, relating to health.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1373.14 of the Health and Safety Code is amended to read:

1373.14. Except for a preexisting condition, any health care service plan, except a specialized health care service plan, which provides coverage on a group or individual basis for long-term care facility services or home-based care shall not exclude persons covered by the plan from receiving these benefits, if they are diagnosed as having any significant destruction of brain tissue with resultant loss of brain function, including, but not limited to, progressive, degenerative, and dementing illnesses, including, but not limited to, Alzheimer's disease, from the coverage offered for long-term care facility services or home-based care.

For purposes of this section, where a particular disease can be determined only with an autopsy, "diagnosed" means clinical diagnosis not dependent on pathological confirmation, but employing nationally accepted criteria.

SEC. 2. Section 10123.16 of the Insurance Code is amended to read:

10123.16. Except for a preexisting condition, every disability insurer issuing policies of individual or group disability insurance in this state that offers group or individual coverage for long-term care facility services or home-based care shall not exclude persons covered by the plan from receiving these benefits, if they are diagnosed as having any significant destruction of brain tissue with resultant loss of brain function, including, but not limited to, progressive, degenerative, and dementing illnesses, including, but not limited to, Alzheimer's disease, from the coverage offered for long-term care facility services or home-based care.

For purposes of this section, where a particular disease can be determined only with an autopsy, "diagnosed" means clinical diagnosis not dependent on pathological confirmation, but

employing nationally accepted criteria.

SEC. 3. Section 10123.17 of the Insurance Code is amended to read:

10123.17. Except for a preexisting condition, every self-insured employee welfare benefit plan in this state that offers group coverage for long-term care facility services or home-based care shall not exclude persons covered by the plan from receiving these benefits, if they are diagnosed as having any significant destruction of brain tissue with resultant loss of brain function, including, but not limited to, progressive, degenerative, and dementing illnesses, including, but not limited to, Alzheimer's disease, from the coverage offered for long-term care facility services or home-based care.

For purposes of this section, where a particular disease can be determined only with an autopsy, "diagnosed" means clinical diagnosis not dependent on pathological confirmation, but employing nationally accepted criteria.

SEC. 4. Section 11512.177 of the Insurance Code is amended to read:

11512.177. Except for a preexisting condition, every nonprofit hospital service plan that covers hospital, medical, or surgical expenses on a group or individual basis, and which offers coverage for long-term care facility services or home-based care, shall not exclude persons covered by the plan from receiving these benefits, if they are diagnosed as having any significant destruction of brain tissue with resultant loss of brain function, including, but not limited to, progressive, degenerative, and dementing illnesses, including, but not limited to, Alzheimer's disease, from the coverage offered for long-term care facility services or home-based care.

For purposes of this section, where a particular disease can be determined only with an autopsy, "diagnosed" means clinical diagnosis not dependent on pathological confirmation, but employing nationally accepted criteria.

CHAPTER 1050

An act to add Section 1799.3 to the Civil Code, relative to business records.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1799.3 is added to the Civil Code, to read:

1799.3. (a) No person providing video cassette sales or rental services shall disclose any personal information or the contents of any record, including sales or rental information, which is prepared or maintained by that person, to any person, other than the individual

who is the subject of the record, without the written consent of that individual.

(b) This section does not apply to any of the following:

(1) To a disclosure to any person pursuant to a subpoena or court order.

(2) To a disclosure which is in response to the proper use of discovery in a pending civil action.

(3) To a disclosure to any person acting pursuant to a lawful search warrant.

(4) To a disclosure to a law enforcement agency when required for investigations of criminal activity, unless that disclosure is prohibited by law.

(5) To a disclosure to a taxing agency for purposes of tax administration.

(6) To a disclosure of names and addresses only for commercial purposes.

(c) Any willful violation of this section shall be subject to a civil penalty not to exceed five hundred dollars ($500) for each violation, which may be recovered in a civil action brought by the person who is the subject of the records.

(d) (1) Any person who willfully violates this section on three or more occasions in any six-month period shall, in addition, be subject to a civil penalty not to exceed five hundred dollars ($500) for each violation, which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney or city attorney, or by a city prosecutor in any city or city and county having a full-time city prosecutor, in any court of competent jurisdiction.

(2) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If the action is brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered.

(e) The penalty provided by this section is not an exclusive remedy, and does not affect any other relief or remedy provided by law.

CHAPTER 1051

An act to amend Sections 215 and 9202 of the Probate Code, relating to probate.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 215 of the Probate Code is amended to read:

215. Where a deceased person has received or may have received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code, the estate attorney, or if there is no estate attorney, the beneficiary, the personal representative, or the person in possession of property of the decedent shall give the Director of Health Services notice of the decedent's death not later than 90 days after the date of death. The notice shall include a copy of the decedent's death certificate. The notice shall be given as provided in Section 1215, addressed to the director at the Sacramento office of the director.

SEC. 2. Section 9202 of the Probate Code is amended to read:

9202. Not later than 90 days after the date letters are first issued to a general personal representative, the general personal representative or estate attorney shall give the Director of Health Services notice of the decedent's death in the manner provided in Section 215 if the general personal representative knows or has reason to believe that the decedent received health care under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code. The director has four months after notice is given in which to file a claim.

CHAPTER 1052

An act to add Section 1714.10 to the Civil Code, relating to civil actions.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1714.10 is added to the Civil Code, to read:

1714.10. No cause of action against an attorney based upon a civil conspiracy with his or her client shall be included in a complaint or other pleading unless the court enters an order allowing the pleading

that includes a claim for civil conspiracy to be filed after the court determines that the party seeking to file the pleading has established that there is a reasonable probability that the party will prevail in the action. The court may allow the filing of a pleading claiming liability based upon a civil conspiracy following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

SEC. 2. It is the intent of the Legislature in enacting this measure to modify the decision of the Court of Appeal in Wolfrich Corp. v. United Services Automobile Assn., 149 Cal. App. 3d 1206 (1st Dist. 1983).

CHAPTER 1053

An act to amend and renumber Section 17577 of, repeal and add Sections 17577.2, 17577.3, and 17577.5 of, to add Sections 17577 and 17577.6, and to repeal Section 17577.1 of, the Business and Professions Code, relating to water treatment devices.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 17577 is added to the Business and Professions Code, to read:

17577. (a) The Legislature finds and declares that there have been situations where homeowners have been subjected to fraud, deception, and unfair dealing by certain promoters of water treatment devices. Water contamination problems throughout the nation have created concern among homeowners concerning the quality and healthfulness of home water for drinking. Some promoters of water treatment devices have made false, misleading, and unfair statements in connection with sale of water treatment devices, including, but not limited to, false, misleading, and unfair statements regarding general levels of water contamination, water contamination problems actually or potentially affecting particular homeowners, actual or potential health risks associated with the consumption of water, and the features and performance of water treatment devices. As a result of false, misleading, and unfair statements, including statements that have the purpose or effect of

alarming the public about the condition of water, many homeowners have been pressured into purchasing water treatment devices without the opportunity to verify the accuracy of the sales representations.

(b) The Legislature also finds and declares that current law does not afford homeowners who enter transactions for the acquisition of water treatment devices the right in all instances to cancel the transaction within three days of its consummation. Moreover, homeowners may be subjected to the loss of their homes through the foreclosure of liens securing financing of water treatment devices.

(c) The Legislature further finds and declares that the protection of homeowners and consumers from untrue and misleading statements and from unfair dealing is of the utmost importance.

(d) The intent and purposes of this article are to safeguard the public against deceit; to ensure, foster, and encourage fair dealing in the sale of water treatment devices; to prohibit misleading representations; to prohibit certain liens on real property; and to afford homeowners a reasonable and meaningful opportunity to rescind transactions for the acquisition of water treatment devices.

(e) This article shall be liberally construed to effectuate the intent and to achieve the purposes described in subdivision (d).

SEC. 2. Section 17577 of the Business and Professions Code is amended and renumbered to read:

17577.1. For the purposes of this article, the following terms have the following meanings:

(a) "Contaminant" or "contamination" means any health-related physical, chemical, biological, or radiological substance or matter in water.

(b) "Water treatment device" means any product that (1) is designed to alter the chemical or physical properties or characteristics of water or plumbing or the seller, lessor, or renter claims can alter the chemical or physical properties or characteristics of water or plumbing and (2) is used or sold, leased, or rented for use on residential real property primarily for personal, family, or household purposes. "Water treatment device" does not include any device that is regulated pursuant to Chapter 7.5 (commencing with Section 4040) of Part 1 of Division 5 of the Health and Safety Code.

(e) "Person" means any individual, partnership, firm, corporation, or association, or any employee or agent thereof.

SEC. 3. Section 17577.1 of the Business and Professions Code is repealed.

SEC. 4. Section 17577.2 of the Business and Professions Code is repealed.

SEC. 5. Section 17577.2 is added to the Business and Professions Code, to read:

17577.2. It is unlawful for any person to do any of the following in connection with the sale, lease, rental, offer to sell, lease, rent, or other disposition of water treatment devices:

(a) Make any untrue or misleading oral or written statements

regarding the presence of one or more contaminants in water, or the performance of water treatment devices, including, but not limited to, the following oral or written statements:

(1) (A) Any contaminant exists in the water of any person to whom the statement is directed unless the statement is true, is reasonably based on factual data, and at least a written summary of the factual data, which has been prepared or approved by the source of the factual data, is disclosed to the person to whom the statement is directed before that person executes any contract for the purchase, lease, or rental of a water treatment device.

(B) Any contaminant may exist in the water of any person to whom the statement is directed unless the statement is true and is reasonably based on factual data.

(2) A relationship between water quality and acute or chronic illness exists as a scientific certainty unless that statement is true.

(3) The public water system, utility, or treatment plant that supplies water to the person to whom the statement is directed does not test, treat, or remove particular substances from water treated by it unless the statement is true.

(4) A water treatment device removes particular contaminants or other substances from water unless the statement is true, is reasonably based on factual data in existence at the time the statement is made, and the requirements of subparagraphs (A) through (C) are satisfied.

(A) If the particular contaminants or other substances mentioned in the statement described in paragraph (4) are not necessarily in the water of the person to whom the statement is made, the following disclosure or its equivalent must be clearly and conspicuously made: "The contaminants or other substances removed or reduced by this water treatment device are not necessarily in your water."

(B) If the statement described in paragraph (4) is oral, the disclosure described in subparagraph (A) shall be made orally and shall immediately follow the statement. If the statement is in writing, the disclosure shall be in writing and shall be placed immediately next to the written statement.

(C) Notwithstanding subparagraph (A), no statement about the ability of a water treatment device to remove particular contaminants or other substances shall be used to imply falsely that any of those contaminants or other substances are present in the water of the person to whom the statement is made.

(5) Use news events, reports, or descriptions of water quality problems or health hazards associated with water systems or suppliers different from the systems or suppliers of the intended consumer unless, at the same time, the seller sets forth conspicuously and prominently a statement, if true, that the seller has no information that the intended consumer's water supply has the water quality problems or health hazards referred to in the news events, reports, or descriptions.

(6) A water treatment device would provide a health benefit or diminish a health risk unless it would do so.

(7) A water treatment device will solve or contribute to the solution of any problem unless the statement is true.

(b) Perform precipitation tests of the individual consumer's drinking water without also clearly informing the consumer of the results, scope, and limits of the test. Precipitation tests may only be used to demonstrate the hardness or other nonhealth-related characteristics of the water being tested.

(c) Notwithstanding subdivision (a), make product performance claims or product benefit claims that the device affects health or the safety of drinking water, unless the device has been certified by the State Department of Health Services pursuant to Chapter 8.5 (commencing with Section 4057) of Division 5 of the Health and Safety Code. This subdivision does not apply to the making of truthful and nonmisleading claims regarding the removal or reduction of contaminants for which certification is not available pursuant to Chapter 8.5 (commencing with Section 4057) of Division 5 of the Health and Safety Code.

This subdivision shall become operative one year after the effective date of the regulations adopted pursuant to Section 4057.1 of the Health and Safety Code.

(d) Use pictures, exhibits, graphs, charts, other graphic portrayals, endorsements, or testimonials in any untrue or misleading manner.

(e) Fail to disclose clearly and conspicuously, in writing, to the purchaser, lessee, or renter, prior to the time of purchase, lease, or rent, the importance of maintaining the water treatment device according to the manufacturer's instructions, including, if applicable, replacement of screens and filters. In addition, a separate printed gummed label, tag, or other convenient form of reminder of the importance of proper maintenance shall be provided to the purchaser, lessee, or renter.

SEC. 6. Section 17577.3 of the Business and Professions Code is repealed.

SEC. 7. Section 17577.3 is added to the Business and Professions Code, to read:

17577.3. (a) A contract or offer which is subject to approval, for the sale, lease, or rental of a water treatment device shall be deemed a home solicitation contract or offer, as defined in subdivision (a) of Section 1689.5 of the Civil Code regardless of where the contract or offer was made, and shall be subject to the provisions of Sections 1689.5 to 1689.13, inclusive, of the Civil Code if the contract or offer arises out of a scheduled presentation to promote the sale, lease, or rental of a water treatment device to a person invited to attend the presentation at a location other than a private residence.

(b) No water treatment device or any other materials that are the subject of a contract offer described in subdivision (a) shall be delivered and no installation or other services shall be performed until the expiration of the rescission period provided in Sections

1689.5 to 1689.13, inclusive, of the Civil Code.

SEC. 8. Section 17577.5 of the Business and Professions Code is repealed.

SEC. 9. Section 17577.5 is added to the Business and Professions Code, to read:

17577.5. (a) No contract or offer for the sale, lease, or rental of a home water treatment device and no purchase money loan, as defined in subdivision (b), shall provide for a lien on real property. Any lien taken in violation of this section is void and unenforceable.

(b) For the purpose of this section, "purchase money loan" means a loan or an advance under an open-end credit account if both of the following occur:

(1) The primary purpose of the loan or the primary purpose of establishing the open-end credit account is to finance all or a portion of the purchase price or any of the lease or rental payments for a water treatment device.

(2) The creditor knows the primary purpose of the loan or the primary purpose of establishing the open-end credit account when the loan is initially made or the open-end credit account is established.

(c) The creditor shall be deemed to know that the primary purpose of the loan or the primary purpose of establishing the open-end credit account is the primary purpose described in paragraph (1) of subdivision (b) if any of the following occur:

(1) The consumer's application for credit or any other document in the creditor's possession before the loan is made or the open-end account is established indicates the primary purpose of the loan or the open-end credit account.

(2) The seller, lessor, or renter arranges or guarantees the loan or open-end account, or participates in the preparation of the consumer's application for credit or other loan documents, or receives from the creditor a loan commission, brokerage, or referral fee.

(d) For the purpose of this section, "open-end credit" has the same meaning as used in Section 226.2 of Title 12 of the Code of Federal Regulations.

(e) This section does not apply to mechanics' liens established pursuant to Chapter 2 (commencing with Section 3109) of Title 15 of Part 4 of Division 3 of the Civil Code.

SEC. 10. Section 17577.6 is added to the Business and Professions Code, to read:

17577.6. (a) A buyer, lessee, or renter of a water treatment device may bring an action against any person who violates this article for the recovery of actual damages, exemplary damages, reasonable attorney's fees and costs, and appropriate equitable relief.

(b) The rights and remedies provided in this article are in addition to, and not a limitation of, any other rights and remedies provided by law.

(c) Any action brought pursuant to this section shall be

commenced within three years of the discovery by the party of the alleged violation.

(d) Any waiver of this article shall be void and unenforceable as contrary to public policy.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1054

An act to add Section 1463.26 to the Penal Code, and to amend Section 42001 of, and to add Sections 21655.8 and 42001.11 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1463.26 is added to the Penal Code, to read:

1463.26. Notwithstanding Section 1463, out of moneys deposited with the county treasurer pursuant to Section 1463, there shall be transferred, once a month, to the traffic fund of the city, an amount equal to one-third of all fines and forfeitures collected during the preceding month upon the conviction of, or upon the forfeiture of bail by, any person charged with a violation of Section 21655.5 or 21655.8 of the Vehicle Code within that city, and an amount equal to one-third of those fines and forfeitures shall be transferred into the general fund of the county, and an amount equal to one-third of those fines and forfeitures shall be transferred to the agency whose approval is required for high-occupancy vehicle lanes on state highways pursuant to Section 21655.6 of the Vehicle Code. If the arrest for a violation of either Section 21655.5 or 21655.8 of the Vehicle Code was not within a city, then 50 percent of the fines and forfeitures shall be transferred to the general fund of the county and 50 percent shall be transferred to the agency having authority to approve high-occupancy vehicle lanes pursuant to Section 21655.6 of the Vehicle Code. Money received by the agency having the authority to approve high occupancy vehicle lanes pursuant to Section 21655.6 of the Vehicle Code shall be used by that agency for the purposes of improving traffic flow and traffic operations upon the state highway system within the jurisdiction of that agency.

SEC. 2. Section 21655.8 is added to the Vehicle Code, to read:

21655.8. When exclusive or preferential use lanes for high-occupancy vehicles are established pursuant to Section 21655.5

and double parallel solid lines are in place to the right thereof, no person driving a vehicle may cross over these double lines to enter into or exit from the exclusive or preferential use lanes. Entrance or exit may be made only in areas designated for these purposes or where a single broken line is in place to the right of the exclusive or preferential use lanes.

Raised pavement markers may be used to simulate painted lines described in this section.

SEC. 3. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, or 42001.11, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, or Section 2800.1, shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 4. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Section 42000.5, 42001.1, 42001.3, 42001.5, 42001.7, 42001.8, 42001.9, or 42001.11, or subdivision (b) or (c) of this section, or Article 2 (commencing with Section 42030), every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished as follows:

(1) By a fine not exceeding one hundred dollars ($100).

(2) For a second infraction occurring within one year of a prior infraction which resulted in a conviction, a fine not exceeding two hundred dollars ($200).

(3) For a third or any subsequent infraction occurring within one year of two or more prior infractions which resulted in convictions, a fine not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Section 2800, 2801, or 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person shall be punished as follows:

(1) By a fine not exceeding fifty dollars ($50) or imprisonment in the county jail not exceeding five days.

(2) For a second conviction within a period of one year, a fine not exceeding one hundred dollars ($100) or imprisonment in the county jail not exceeding 10 days, or both that fine and imprisonment.

(3) For a third or any subsequent conviction within a period of one year, a fine not exceeding five hundred dollars ($500) or imprisonment in the county jail not exceeding six months, or both that fine and imprisonment.

(c) A pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

SEC. 5. Section 42001.11 is added to the Vehicle Code, to read:

42001.11. Every person convicted of an infraction for a violation of Section 21655.5 or 21655.8 shall be punished as follows:

(a) For a first conviction, a fine of not less than one hundred dollars ($100), nor more than one hundred fifty dollars ($150).

(b) For a second conviction within a period of one year, a fine of not less than one hundred fifty dollars ($150), nor more than two hundred dollars ($200).

(c) For a third or any subsequent conviction within a period of two years, a fine of not less than two hundred fifty dollars ($250), nor more than five hundred dollars ($500).

SEC. 6. Section 4 of this bill incorporates amendments to Section 42001 of the Vehicle Code proposed by both this bill and AB 1836. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 42001 of the Vehicle Code, and (3) this bill is enacted after AB 1836, in which case Section 42001 of the Vehicle Code, as amended by AB 1836, shall remain operative only until the operative date of this bill, at which time Section 4 of this bill shall become operative, and Section 3 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1055

An act to amend Section 15145 of the Education Code, to amend Sections 5302, 29917, and 50663 of, to add Chapter 10.5 (commencing with Section 5850) to Division 6 of Title 1 of, and to repeal Chapter 2 (commencing with Section 58500) of Division 2 of Title 6 of, the Government Code, relating to public finances.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 15145 of the Education Code is amended to read:

15145. (a) The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expense incurred for the preparation, sale, and delivery of the school bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school district or community college district issuing the bonds are legal charges against the funds of the district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

SEC. 2. Section 5302 of the Government Code is amended to

read:

5302. (a) Wherever any statute requires that any bond issued by a public body be signed, manually by two or more officers or other individuals, all signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of said signatures or countersignatures to the bonds shall be manually affixed. The signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1.

(b) Notwithstanding subdivision (a), the governing board of the public body may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the governing board or its authorized designee.

SEC. 3. Chapter 10.5 (commencing with Section 5850) is added to Division 6 of Title 1 of the Government Code, to read:

CHAPTER 10.5. GENERAL BOND PROVISIONS

5850. As used in this chapter:

(a) "Bonds" means any bonds, notes, certificates of indebtedness or other evidences of indebtedness issued after January 1, 1989, by a public body which is authorized to issue bonds, notes, certificates of indebtedness or other evidence of indebtedness.

(b) "Public body" means the county, city, city and county, public district, public authority, public corporation, nonprofit corporation or other statutorily constituted public entity which is authorized to issue bonds.

(c) "Governing body" means the governing board, commission, city council, board of supervisors, board of directors or similar multimember body which exercises authority over a public body.

5851. Notwithstanding any other provision of law specifying that interest on bonds is payable semiannually, interest on bonds is payable at the times established in the resolution, indenture, agreement or other instrument providing for the issuance of the bonds.

5852. Notwithstanding any other provision of law specifying that bonds shall be issued pursuant to a resolution of a governing body of a public body, a governing body of a public body may authorize the issuance of bonds pursuant to a resolution, indenture, agreement or other instrument providing for the issuance of bonds.

5853. The general authority provided in this chapter is intended to be in addition to, and not limited by, specific provisions authorizing the issuance of bonds, notes or other evidences of indebtedness and is separate and complete authority for the actions authorized in this chapter.

SEC. 4. Section 29917 of the Government Code is amended to read:

29917. (a) The bonds shall be signed by the chairperson of the board of supervisors or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk thereof. All the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Division 6 of Title 1 of the Government Code.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided however that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

SEC. 5. Section 50663 of the Government Code is amended to read:

50663. In issuing the bonds, the local agency may provide:

(a) (1) That the required signatures to the bonds may be by facsimile, except that at least one signature to the bonds shall be by autograph.

(2) Notwithstanding paragraph (1), the local agency may, in its discretion, determine that all of the required signatures shall be by facsimile, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the governing board of the local agency or its authorized designee.

(b) For the registration of the bonds or coupons.

(c) For making the bonds and coupons payable by the treasurer of the local agency or an agency established for the purpose by the local agency at one or more points within or without the state upon presentation and surrender and without demand and approval required by charter for claims against the local agency.

(d) For the deposit with the agency of money from the fund from which the bonds and coupons are payable, for their payment upon presentation and surrender to the agency.

SEC. 6. Chapter 2 (commencing with Section 58500) of Division 2 of Title 6 of the Government Code is repealed.

CHAPTER 1056

An act to amend Section 6303 of the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 6303 of the Food and Agricultural Code is amended to read:

6303. (a) It is unlawful for any person, except under written permission from a plant quarantine officer or under his specific direction, to move any lot or shipment of plants or other things to which a warning tag or notice has been affixed pursuant to this division, or to remove, alter, destroy, deface, or mutilate any such warning tag or notice.

(b) If any shipment of plants or things is allowed to transit the state or transit to a given destination county under a quarantine warning-hold notice, the shipment of plants or things shall not be diverted to another destination without the written permission of the director or the commissioner of the destination county.

(c) Diversion of a shipment as described in subdivision (b) is unlawful.

(d) If a shipment of plants or things requires a state or county plant quarantine officer to be present at the destination to supervise the unloading, inspection, or treatment of a quarantine shipment, the director or commissioner, as the case may be, may charge the shipper or receiver a service fee for the cost of the services. Service fees shall be determined based on the director or commissioner's costs for the services rendered.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1057

An act to add Section 374.2 to the Penal Code, relating to crimes.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 374.2 is added to the Penal Code, to read:

374.2. (a) It is unlawful for any person to maliciously discharge, dump, release, place, drop, pour, or otherwise deposit, or to maliciously cause to be discharged, dumped, released, placed, dropped, poured, or otherwise deposited, any substance capable of causing substantial damage or harm to the operation of a public sewer sanitary facility, or to deposit in commercial quantities any other substance, into a manhole, cleanout, or other sanitary sewer facility, not intended for use as a point of deposit for sewage, which is connected to a public sanitary sewer system, without possessing a written authorization therefor granted by the public entity which is charged with the administration of the use of the affected public sanitary sewer system or the affected portion of the public sanitary sewer system.

As used in this section, "maliciously" means an intent to do a wrongful act.

(b) For the purposes of this section "person" means an individual, trust, firm, partnership, joint stock company, or corporation, and "deposited in commercial quantities" refers to any substance deposited or otherwise discharged in any amount greater than for normal domestic sewer use.

(c) Lack of specific knowledge that the facility into which the prohibited discharge or release occurred is connected to a public sanitary sewer system shall not constitute a defense to a violation charged under this section.

(d) Any person who violates this section shall be punished by imprisonment in the county jail for not more than one year, or by a fine of up to twenty-five thousand dollars ($25,000), or by both a fine and imprisonment. If the conviction is for a second or subsequent violation, the person shall be punished by imprisonment in the county jail for not more than one year, or imprisonment in the state prison for 16, 20, or 24 months, and by a fine of not less than five thousand dollars ($5,000) or more than twenty-five thousand dollars ($25,000).

SEC. 2. This section shall not be construed to alter, diminish, or preempt the application of other federal or state laws, or any principle of the common law, which may provide penalties for the discharge or release of hazardous wastes or other pollutants, nor shall this section be construed to create or enlarge any defense in any action to enforce those penalties.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1058

An act to add Sections 742 and 742.1 to the Public Utilities Code, relating to telephones.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 20, 1988]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares as follows:

(1) New technology, the divestiture of the American Telephone and Telegraph Company, and the efforts of both the Federal Communications Commission and the Public Utilities Commission to facilitate greater competition in the telephone industry have required the Legislature to review recently deregulated telephone services to assure that adequate consumer safeguards have been addressed. One of these services is that which is provided by coin- and credit card-activated pay telephones owned and operated by nonpublic utility service providers in competition with similar services provided by regulated telephone corporations.

(2) Pay telephones operated by regulated telephone corporations are operated pursuant to comprehensive regulation by the Public Utilities Commission, pursuant to specific consumer safeguards and rate tariffs.

(3) Presently, however, pay telephones operated by nonpublic utilities may compete for consumer business free of these regulatory requirements and safeguards.

(b) It is, therefore, the intent of the Legislature in enacting Sections 742 and 742.1 of the Public Utilities Code to require the furnishing of telephone service through nonpublic utility owned and operated coin- and credit card-activated pay telephones to be pursuant to requirements of basic consumer protection and safeguards.

SEC. 2. Section 742 is added to the Public Utilities Code, to read:

742. (a) The commission shall, by rule or order, adopt and enforce operating requirements for coin-activated and credit card-activated telephones available for public use owned or operated by corporations or persons other than telephone corporations. These requirements shall include, but are not limited to, all of the following:

(1) A requirement that the telephone corporation furnishing

service to the corporation or person owning or operating a coin-activated or credit card-activated telephone terminate service for any violation of the commission's rules or orders or of this section, upon a finding by the commission that the violation was a significant or repeated violation.

(2) A requirement that every telephone permit a caller to be connected with the operator personnel of any telephone corporation authorized by the commission to operate within a service area by dialing the numeral "0" and with the emergency services switchboard reached by dialing the numerals "911" without insertion of any coin.

(3) A requirement that every telephone contain instructions for both local and long distance dialing, the name of the owner or operator of the telephone, and the telephone number of that owner or operator to which complaints can be made.

(b) The commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the commission adopted pursuant to this section.

SEC. 3. Section 742.1 is added to the Public Utilities Code, to read:

742.1. (a) The commission shall, by rule or order, adopt and enforce operating requirements for every corporation or person, other than a telephone corporation, which, as part of the services furnished, furnishes operator-assisted services by other than a telephone corporation having tariff schedules on file with the commission. These requirements shall include, but not be limited to, a requirement that furnishing these operator-assisted services for telephone calls within a service area is prohibited unless the commission, after instituting a proceeding for the purpose, finds and determines that to permit these operator-assisted services is in the public interest.

(b) The commission shall require every telephone corporation which publishes a directory of subscribers to include in that directory information comprising the substance of this section and the rules and orders of the commission adopted pursuant to this section.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1059

An act to amend Sections 67 and 12157 of, and to add Chapter 6 (commencing with Section 500) to Division 1 and Chapter 6.5 (commencing with Section 2580) to Division 3 of, the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) The wildlife of our state is one of the people's most precious resources.

(b) The care and management of our dwindling fish and wildlife has necessarily required limitations on the harvest of game mammals and fish in order to provide for the survival of the species and continuation of a valuable food source.

(c) The illegal and negligent destruction of native plant and nongame animal species threatens the survival of natural systems important to the people of California.

(d) The lawful commercial utilization of designated species whose populations are sufficient to support this activity is a beneficial use.

(e) The unlawful taking of fish and wildlife significantly undermines the efforts of the state and its people to preserve a viable wildlife population.

(f) Establishing significant economic disincentives to poaching and illegal sales is one means that may inhibit, deter, and reduce unlawful poaching for profit or personal gain.

SEC. 2. Section 67 of the Fish and Game Code is amended to read:

67. "Person" means any natural person or any partnership, corporation, trust, or other type of association.

SEC. 3. Chapter 6 (commencing with Section 500) is added to Division 1 of the Fish and Game Code, to read:

CHAPTER 6. DAMAGES FROM POACHING AND ILLEGAL SALES

500. (a) The commission shall, by regulation, adopt guidelines to assist the director and the department in ascertaining the amount of civil penalties to be imposed pursuant to Section 2582 or 2583. The guidelines may include monetary amounts or ranges of monetary amounts that the commission finds are adequate to deter illegal actions and partially compensate the people of California for losses to the fish and wildlife resources from illegal transactions described in Section 2582 or 2583 for profit or personal gain.

(b) If the violation involves birds, mammals, amphibians, reptiles, or fish with a value in the aggregate of less than four hundred dollars ($400) and involves only the transportation, taking, or receipt of fish or wildlife taken or possessed in violation of this code, the guidelines shall provide that the civil penalty shall not exceed the maximum criminal fine provided by law for the violation in this code or ten thousand dollars ($10,000), whichever is less. For purposes of this section, "value" means the retail market value if a market value exists, the potential monetary gain to the accused or, for commercial species, the established retail market value.

(c) The guidelines shall include consideration of the nature, circumstances, extent, and gravity of the prohibited acts committed, and the degree of culpability of the violator, including lesser penalties for acts which have little significant effect upon the resources and greater penalties for acts which may cause serious injury to the resources.

(d) Nothing in this chapter or in Chapter 6.5 (commencing with Section 2580) of Division 3 shall be used to establish a monetary value for fish or wildlife resources in connection with any development, project, or land or water use plan or activity as permitted by any federal, state, or local governmental activity. This chapter does not apply to any action brought to recover civil damages under Section 2014.

SEC. 4. Chapter 6.5 (commencing with Section 2580) is added to Division 3 of the Fish and Game Code, to read:

CHAPTER 6.5. CONTROL OF ILLEGALLY TAKEN FISH AND WILDLIFE

2580. The definitions in this section govern the construction of this chapter.

(a) "Qualified hearing officer" means an attorney admitted to the State Bar of California who is knowledgeable in fish and wildlife law.

(b) "Transport" means to move, convey, carry, or ship by any means, or to deliver or receive for the purpose of movement, conveyance, carriage, or shipment.

2581. If the loss is lawful under this code and regulations adopted under this code, this chapter does not apply to the loss of any bird, mammal, amphibian, reptile, or fish as a result of any of the following acts:

(a) Implementing lawful forestry practices.

(b) Implementing lawful agricultural practices.

(c) Any development or maintenance activity carried out pursuant to the terms of a permit issued by the federal government, the state, or any city, county, or district, or any agency thereof.

2582. (a) The department may impose civil liability upon any person pursuant to this chapter for any of the following acts done for profit or personal gain:

(1) Unlawfully export, import, transport, sell, possess, receive,

acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting, sale, possession, receiving, acquisition, or purchasing of, any bird, mammal, amphibian, reptile, or fish which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(2) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase, or unlawfully assist, conspire, or aid in the importing, exporting, transporting, sale, possession, receiving, acquisition, or purchasing of any plants, insects, or other species listed pursuant to the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050)), which are taken or possessed in violation of this code or the regulations adopted pursuant to this code.

(3) Unlawfully export, import, transport, sell, possess, receive, acquire, or purchase any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or the regulations adopted pursuant to this code.

(4) Unlawfully possess any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish which has been taken, possessed, transported, or sold in violation of this code or any regulations adopted pursuant to this code within the maritime and territorial jurisdiction of the state or within the portions of the special maritime jurisdiction of the United States upon which the State of California exercises concurrent jurisdiction, either by statute, deputization, or by contract with the United States.

(5) Having exported, imported, transported, sold, purchased, or received any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish, unlawfully make or submit any false record, account, label, or identification thereof.

(6) Attempt to commit any unlawful act, or unlawfully attempt to commit any act, described in paragraphs (1) to (5), inclusive.

(b) The department may impose civil liability upon any person pursuant to this chapter for unlawfully exporting, importing, possessing, receiving, or transporting in interstate commerce any container or package containing any bird, mammal, amphibian, reptile, or fish, or any endangered or threatened species, or any fully protected bird, mammal, or fish unless the container or package has previously been plainly marked, labeled, or tagged in accordance with this code and the regulations adopted pursuant to this code.

(c) The department may impose civil liability upon any person pursuant to this chapter for any unlawful failure or refusal to maintain any records or paperwork as required by this code.

2583. (a) Except as provided in subdivision (b), any person who violates this code or any regulation adopted to carry out this code, and, with the exercise of due care, should have known that the birds,

mammals, amphibians, reptiles, or fish, or the endangered or threatened species, or the fully protected birds, mammals, or fish were taken, possessed, transported, imported, received, purchased, acquired, or sold in violation of, or in a manner unlawful under, this code, may be assessed a civil penalty. The civil penalty imposed under this chapter by the department shall not be more than ten thousand dollars ($10,000) for each bird, mammal, amphibian, reptile, or fish, or for each endangered or threatened species, or each fully protected bird, mammal, or fish unlawfully taken, possessed, transported, imported, received, purchased, acquired, or sold. This civil penalty may be in addition to any other penalty, civil or criminal, provided in this code or otherwise by law.

(b) No civil penalties shall be imposed under this chapter until the guidelines for the imposition of the penalties are adopted by the commission pursuant to Section 500.

2584. (a) Upon an actionable violation, the department shall consult, as to the appropriate civil or criminal remedy, with the district attorney in the jurisdiction where the violation was alleged to have occurred. Before proceeding with a civil action, the department shall seek the concurrence of the Attorney General.

(b) The director shall appoint a qualified referee or hearing board, composed of one or any combination of the following persons:

(1) A qualified hearing officer, as defined in subdivision (a) of Section 2580.

(2) A retired judge of the Superior Court who is knowledgeable in fish and wildlife law.

(3) A qualified neutral referee, appointed upon petition to the Superior Court in which the violation was alleged to have occurred.

(c) The director, after investigation of the facts and circumstances, may issue a complaint to any person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583. The complaint shall allege the acts or failures to act that constitute a basis for a civil penalty and the amount of the proposed civil penalty. The complaint shall be served by personal service or certified mail and shall inform the person so served that a hearing shall be conducted within 60 days after the person has been served, unless the person waives the right to a hearing. If the person waives the right to a hearing, the department shall issue an order setting liability in the amount proposed in the complaint. If the person has waived the right to a hearing or if the department and the person have entered into a settlement agreement, the order shall be final.

(d) Any hearing required under this section shall be conducted by a referee or hearing board according to the procedures specified in Sections 11507 to 11517, inclusive, of the Government Code, except as otherwise provided in this section. In making a determination, the hearing officer may consider the records of the department in the matter, the complaint, and any new facts brought to his or her attention by that person. The hearing officer shall be the sole trier of fact as to the existence of a basis for liability under Section 2582

or 2583. The hearing officer shall make the determination of the facts of the case and shall prepare and submit the proposed decision, including recommended penalty assessment, to the director for his or her review and assistance in the penalty assessment process.

(e) The director may assess the civil penalty, and may reduce the amount, or not impose any assessment, of civil penalties based upon the nature, circumstances, extent, and gravity of the prohibited acts alleged, and the degree of culpability of the violator; or the director may enter into a settlement agreement with the person in the best interests of the state or confirm the amount of civil penalties contained in the complaint. If the director reduces the amount of the civil penalty, does not impose the civil penalty, or enters into a settlement agreement, the director shall seek the recommendation of the hearing officer and enter into the records of the case the reasons for that action, including the hearing officer's recommendation. The decision of the director assessing the civil penalty is final. The proposed decision is a public record and shall be served upon the person. The director may approve the proposed decision in its entirety, or the director may reduce the proposed penalty and adopt the balance of the proposed decision.

(f) Upon the final assessment of the civil penalty, the department shall issue an order setting the amount of the civil penalty to be imposed. An order setting civil liability under this section becomes effective and final upon the issuance thereof, and payment shall be made within 30 days of issuance. Copies of the order shall be served by personal service or by certified mail upon the person served with the complaint and upon other persons who appeared before the director and requested a copy. Copies of the order shall be provided to any person within 10 days of receipt of a written request from that person.

(g) Within 30 days after service of a copy of an order setting the amount of the civil penalty, any person so served may file with the superior court a petition for a writ of mandate for review of the order. In all proceedings pursuant to this subdivision, the court shall exercise its independent judgment on the evidence in the whole record. The filing of a petition for a writ of mandate shall not stay any other civil or criminal action.

(h) The records of the case, after all appeals are final, are public records, as defined in subdivision (d) of Section 6252 of the Government Code.

2585. The civil penalties imposed under this chapter are in addition to any forfeiture of equipment pursuant to Section 12157 or forfeiture of birds, mammals, amphibia, reptiles, or fish pursuant to Section 12159.

2586. (a) The director may pay a reward from any funds available for that purpose to any person who furnished information which led to an arrest, a criminal conviction, an order of assessment of a civil penalty, or for forfeiture of property for any violation of this code or any regulation adopted pursuant to this code. The amount

of reward, if any, shall be designated by the director with the advice of the CalTIP Award Board.

(b) This chapter does not apply to any action brought to recover damages under Section 2014.

2587. (a) Notwithstanding Section 12511 of the Government Code, the department may retain or appoint legal counsel to prepare and prosecute civil actions under this chapter.

(b) Any action to recover civil penalties imposed under this chapter shall be commenced within three years after discovery of the commission of the offense.

2588. All civil penalties and revenues from forfeitures collected pursuant to this chapter shall be deposited in the Fish and Game Preservation Fund.

2589. The commission and the department may adopt regulations as are necessary to carry out their responsibilities under this chapter.

SEC. 5. Section 12157 of the Fish and Game Code is amended to read:

12157. (a) Except as provided in subdivision (b), the judge before whom any person is tried for a violation of any provision of this code, or regulation adopted pursuant thereto, may, in his or her discretion, upon the conviction of the person tried, order the forfeiture of any device or apparatus which is designed to be, and capable of being, used to take birds, mammals, fish, reptiles, or amphibia and which was used in committing the offense charged.

(b) The judge shall, if the offense is punishable under Section 12008 of this code or subdivision (c) of Section 597 of the Penal Code, order the forfeiture of any device or apparatus which is used in committing the offense, including, but not limited to, any vehicle which is used or intended for use in delivering, importing, or exporting any unlawfully taken, imported, or purchased species.

(c) Any device or apparatus ordered forfeited shall be sold, used, or destroyed by the department.

(d) The proceeds from all sales under this section, after payment of any valid liens on the forfeited property, shall be paid into the Fish and Game Preservation Fund. A lien in which the lienholder is a conspirator is not a valid lien for purposes of this subdivision.

(e) The provisions in this section authorizing or requiring a judge to order the forfeiture of a device or apparatus are applicable to the judge, referee, or traffic hearing officer in a juvenile court action brought under Section 259 of the Welfare and Institutions Code.

(f) For purposes of this section, a plea of nolo contendere or no contest, or forfeiture of bail, constitutes a conviction.

(g) Neither the disposition of the criminal action other than by conviction nor the discretionary refusal of the judge to order forfeiture upon conviction impairs the right of the department to commence proceedings to order the forfeiture of fish nets or traps pursuant to Section 8630.

CHAPTER 1060

An act to add and repeal Sections 714, 7149.2, and 13005 of the Fish and Game Code, relating to fish and game, and making an appropriation therefor.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 714 is added to the Fish and Game Code, to read:

714. (a) In addition to Section 3031, 7149, or 7149.2, and notwithstanding Section 3037, the department shall issue lifetime sportsman's licenses under this section. A lifetime sportsman's license authorizes, the taking of birds, mammals, fish, reptiles, or amphibia anywhere in this state in accordance with law for purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sportsman's license is not transferrable. A lifetime sportsman's license does not include any special license tags, license stamps, or fees.

(b) A lifetime sportsman's license shall be issued to any of the following:

(1) To a resident of this state 40 years of age or older, upon payment of a fee of eight hundred twenty-five dollars ($825), as adjusted under Section 713.

(2) To a resident of this state under the age of 40 years, upon payment of a fee of one thousand two hundred dollars ($1,200), as adjusted under Section 713.

(c) A lifetime sportsman's license is valid for a period ending five years after the licensee is no longer a resident of this state.

(d) Nothing in this section requires a person under the age of 16 to obtain a license to take fish, reptiles, or amphibia for purposes other than profit or to obtain a license to take birds or mammals except as required by law.

(e) Nothing in this section exempts an applicant for a license from meeting other qualifications or requirements otherwise established by law for the privilege of sporthunting or sportfishing.

(f) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 2. Section 7149.2 is added to the Fish and Game Code, to read:

7149.2. (a) In addition to Sections 714 and 7149, the department shall issue a lifetime sportfishing license under this section. A lifetime sportfishing license authorizes the taking of fish, amphibia, or reptiles anywhere in this state in accordance with the law for

purposes other than profit for the life of the person to whom issued unless revoked for a violation of this code or regulations adopted under this code. A lifetime sportfishing license is not transferrable. A lifetime sportfishing license does not include any special license tags, license stamps, or fees.

(b) A lifetime sportfishing license shall be issued to any of the following:

(1) To a resident of this state 40 years of age or older upon payment of a fee of four hundred fifty dollars ($450), as adjusted under Section 713.

(2) To a resident of this state under the age of 40 years upon payment of a fee of six hundred dollars ($600), as adjusted under Section 713.

(c) A lifetime sportfishing license is valid for a period ending five years after the licensee is no longer a resident of this state.

(d) Nothing in this section requires a person under the age of 16 years to obtain a license to take fish, amphibia, or reptiles for purposes other than profit.

(e) Nothing in this section exempts a license applicant from meeting other qualifications or requirements otherwise established by law for the privilege of sportfishing.

(f) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 3. Section 13005 is added to the Fish and Game Code, to read:

13005. (a) Notwithstanding Section 13001, the money collected from fees for lifetime sportsman's licenses under Section 714, and lifetime sportfishing licenses under Section 7149.2, are not refundable and shall be deposited, as follows:

(1) Seventy-five dollars ($75) for each lifetime license issued shall be deposited in the Fish and Game Preservation Fund for use in accordance with Section 711.

(2) The balance of the fees shall be deposited in the Lifetime License Trust Account which is hereby created in the Fish and Game Preservation Fund. Except as provided in this section, that principal amount of the money in the account from the fee for a lifetime license shall not be used, except for investment.

(b) The money in the Lifetime License Trust Account may be transferred and invested through the Surplus Money Investment Fund and all interest shall accrue to the account pursuant to subdivision (g) of Section 16475 of the Government Code.

(c) (1) Each year the department shall transfer from the Lifetime License Trust Account to the Fish and Game Preservation Fund an amount equal to the current amount of the resident hunting and sportfishing license fee times the number of lifetime sportsman's licenses in force and effect on July 1 of that year.

(2) Each year the department shall transfer from the Lifetime License Trust Account to the Fish and Game Preservation Fund an

amount equal to the current amount of the resident sportfishing license fee times the number of lifetime sportfishing licenses in force and effect on July 1 of that year.

(d) The principal amount of the money deposited in the Lifetime License Trust Account shall be transferred to the Fish and Game Preservation Fund for use in accordance with Section 711 upon attainment of the actuarially determined life expectancy of the licensee.

(e) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1994, deletes or extends that date.

SEC. 4. The Legislature hereby finds and declares that persons electing to obtain lifetime licenses to hunt and sportfish do so, in part, because of their desire to provide a permanent, reliable source of funding to protect and preserve the fish and game resources of this state and obtain the license and pay the fees with the understanding they will be used as provided in this act and that the lifetime trust account is a trust fund for the purposes provided in this section.

It is the intent of the Legislature to provide funding for sportfishing and sporthunting programs in excess of what would otherwise have been available through annual license fees. If, in the evaluation by the Department of Fish and Game, this is not the revenue effect of lifetime licenses, the department shall recommend changes in lifetime license fees so as to meet this intent.

SEC. 5. The sum of thirty-two thousand five hundred dollars ($32,500) is hereby appropriated from the Fish and Game Preservation Fund to the Department of Fish and Game for expenditure in the 1988–89 fiscal year for the purpose of establishing 1.5 personnel years to implement this act.

CHAPTER 1061

An act to amend Section 25191 of, and to add Sections 25115.1 and 25162 to, the Health and Safety Code, relating to hazardous waste.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 25115.1 is added to the Health and Safety Code, to read:

25115.1. "Federal act" means the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. Sec. 6901 et seq.).

SEC. 2. Section 25162 is added to the Health and Safety Code, to read:

25162. (a) No person shall transport any hazardous waste on the highways of this state, or deliver to a railroad or vessel any hazardous

waste for transport, if the final destination of the transported hazardous waste is a facility in a state other than this state or in a territory of the United States, unless one of the following applies:

(1) The facility has been issued a permit pursuant to subsection (c) or (g), or has been granted authority to operate pursuant to subsection (e), of Section 3005 of the federal act (42 U.S.C. Sec. 6925) by either of the following:

(A) The Environmental Protection Agency.

(B) The state in which the facility is located, if the state has authorization to operate a hazardous waste program pursuant to Section 3006 of the federal act (42 U.S.C. Sec. 6926).

(2) The facility is authorized by the state in which it is located, pursuant to the applicable laws or regulations of that state, to accept the transported hazardous waste for transfer, handling, recycling, storage, treatment, or disposal.

(b) No person shall transport any hazardous waste on the highways of this state, or deliver to a railroad or vessel any hazardous waste for transport, if the final destination of the transported hazardous waste is a facility which is located on a site which has been listed on the National Priorities List established pursuant to subparagraph (B) of paragraph (8) of Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sec. 9605 (8) (B)).

(c) Any person who knowingly transports or causes the transportation of, or who reasonably should have known that the person was causing the transportation of, any hazardous waste in violation of subdivision (a) or (b) shall, upon conviction, be subject to the penalties specified in subdivision (a) of Section 25191.

(d) Any person who knowingly delivers, or arranges the delivery of, any hazardous waste to another person for transport in violation of subdivision (a) or (b) shall, upon conviction, be subject to the penalties specified in subdivision (a) of Section 25191.

(e) No person shall transport any hazardous waste which is subject to the requirements of Section 3017 of the federal act (42 U.S.C. Sec. 6938) on the highways of this state or deliver to a railroad or vessel any of this hazardous waste for transport, if the final destination of the transported hazardous waste is a foreign country, unless the shipment is in compliance with the applicable regulations adopted pursuant to Section 25150.2 and either of the following conditions is met:

(1) A copy of the foreign country's written consent to receive the hazardous waste, or a copy of the EPA Acknowledgement of Consent, as defined in Section 262.51 of Title 40 of the Code of Federal Regulations, is attached to the manifest required by this article.

(2) The hazardous waste shipment is in compliance with the terms of an international agreement between the United States and the receiving foreign country, as provided in subsection (f) of Section 3017 of the federal act (42 U.S.C. Sec. 6938 (f)).

(f) Any person who knowingly violates, or who reasonably should have known that the person was violating, subdivision (e) shall, upon conviction, be subject to the penalties specified in subdivision (a) of Section 25191.

SEC. 3. Section 25191 of the Health and Safety Code is amended to read:

25191. (a) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than twenty-five thousand dollars ($25,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment:

(1) Makes any false statement or representation in any application, label, manifest, record, report, permit, or other document filed, maintained, or used for the purposes of compliance with this chapter.

(2) Has in his or her possession any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter, that has been altered or concealed, whether altered or concealed prior to January 1, 1982.

(3) Destroys, alters, or conceals any record relating to the generation, storage, treatment, transportation, disposal, or handling of hazardous waste required to be maintained pursuant to this chapter.

(4) Withholds information regarding a real and substantial danger to the public health or safety when such information has been requested by the department and is required to carry out the department's responsibilities pursuant to this chapter in response to a real and substantial danger.

(5) Except as otherwise provided in this chapter, engages in transportation of hazardous waste in violation of Section 25160 or 25161, or subdivision (a) or (e) of Section 25163, or in violation of any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete or provide the manifest in the form and manner required by the department.

(6) Except as otherwise provided in this chapter, produces, receives, stores, or disposes of hazardous waste, or submits hazardous waste for transportation, in violation of Section 25160 or 25161 or any regulation adopted by the department pursuant to those sections, including, but not limited to, failing to complete, provide, or submit the manifest in the form and manner required by the department.

(7) Transports any waste, for which there is provided a manifest, if the transportation is in violation of this chapter or the regulations adopted by the department pursuant thereto.

(8) Violates Section 25162.

(b) The penalties imposed by subdivision (a) on any person who commits any of the acts specified in paragraph (5), (7), or (8) of that subdivision shall be imposed only (1) on the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled or (2) on the person who authorizes or causes the transporting, carrying, or handling. These penalties shall not be imposed on the driver of the vehicle, unless the driver is also the owner or lessee of the vehicle or authorized or caused the transporting, carrying, or handling.

If any person other than the person producing the hazardous waste prepares the manifest specified in Section 25160, that other person is also subject to the penalties imposed on a person who commits any of the acts specified in paragraph (6) of subdivision (a).

(c) Any person who knowingly does any of the following acts shall, upon conviction, be punished by a fine of not more than five hundred dollars ($500) for each day of violation, or by imprisonment in the county jail for not to exceed six months, or both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation:

(1) Transports, or authorizes the transportation of, hazardous waste in a truck, trailer, semitrailer, vacuum tank, cargo tank, or container which does not contain a current certificate of compliance, as specified in Section 25168.3.

(2) Carries or handles, or authorizes the carrying or handling of, a hazardous waste without having in the driver's possession the manifest specified in Section 25160.

(3) Transports, or authorizes the transportation of, hazardous waste without having in the driver's possession a valid registration issued by the department pursuant to Section 25163.

(d) Any person who knowingly treats or stores any hazardous waste at a facility which does not have a permit from the department issued pursuant to this chapter, or at any point which is not authorized according to this chapter, shall, upon conviction, be punished by a fine of not less than two thousand dollars ($2,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment. Each day or partial day that a violation occurs is a separate violation. If the conviction is for a second or subsequent violation of this subdivision, the person shall be punished by imprisonment in the state prison for 16, 20, or 24 months, or in the county jail for not more than one year, or by a fine of not less than five thousand dollars ($5,000) or more than fifty thousand dollars ($50,000) for each day of violation, or by both the fine and imprisonment.

(e) Whenever any person is prosecuted for a violation pursuant to

paragraph (5), (6), (7), or (8) of subdivision (a), subdivision (c), or subdivision (c) of Section 25189.5, the prosecuting attorney may take appropriate steps to make the owner or lessee of the vehicle in which the hazardous wastes are unlawfully transported, carried, or handled, the driver of the vehicle, or any other person who authorized or directed the loading, maintenance, or operation of the vehicle, who is reasonably believed to have violated these provisions, a codefendant. If a codefendant is held solely responsible and found guilty, the court may dismiss the charge against the person who was initially so charged.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1062

An act to add Section 846.2 to the Civil Code, relating to liability.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 846.2 is added to the Civil Code, to read:

846.2. No cause of action shall arise against the owner, tenant, or lessee of land or premises for injuries to any person who has been expressly invited on that land or premises to glean agricultural or farm products for charitable purposes, unless that person's injuries were caused by the gross negligence or willful and wanton misconduct of the owner, tenant, or lessee. The immunity provided by this section does not apply if the owner, tenant, or lessee received any consideration for permitting the gleaning activity.

CHAPTER 1063

An act to add Section 5705 to the Food and Agricultural Code, relating to agriculture.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 5705 is added to the Food and Agricultural Code, to read:

5705. (a) The director or commissioner may enter into compliance agreements with any person which provide for the movement of hosts or other possible carriers of any pest from one area of the state to another. These agreements shall establish the treatment, harvesting, packing, and handling requirements that may be necessary to assure that the hosts or carriers are not infested.

(b) Violation of the treatment, harvesting, packing, or handling terms of a compliance agreement is unlawful.

(c) Any person who violates treatment, harvesting, packing, or handling terms in an agreement is also liable civilly in an amount not exceeding ten thousand dollars ($10,000). This remedy is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that otherwise are available to the state.

(d) Any funds recovered by the department pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for use, upon appropriation by the Legislature, to cover costs related to the enforcement of this division.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1064

An act to amend Sections 94302 and 94331 of, and to add Section 94334 to, the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 94302 of the Education Code is amended to

read:

94302. As used in this chapter, unless the context requires otherwise:

(a) "Agency" means a business entity established for the purpose of recruiting students for enrollment in a private postsecondary school, as defined in this chapter, and any other business entity engaged in that activity with the exception of the educational institution itself.

(b) "Agency authorization" means a written document issued by the Superintendent of Public Instruction authorizing a business entity to engage in the recruitment of students for enrollment in private postsecondary institutions authorized or approved under this chapter.

(c) "Agent" means any person who, at a place away from the principal school premises or site of instruction, whose primary task is to serve as a paid recruiter, while owning an interest in, employed by, or representing for remuneration or other consideration a private postsecondary educational institution located within or without this state, offers or attempts to secure enrollment of any person within this state or accepts application fees or admissions fees for education in an institution. Administrators and faculty who make informational public appearances are exempted from this definition.

(d) "Agent's permit" means a nontransferable written document issued to an agent pursuant to the provisions of this chapter by the Superintendent of Public Instruction.

(e) "Approval to operate" means that the institution so approved has met recognized and accepted standards as determined by the Superintendent of Public Instruction in carrying out the provisions of this chapter to operate a postsecondary educational institution in this state.

(f) "Authorization to operate" means that the institution so authorized has been granted permission by the Superintendent of Public Instruction to operate as a postsecondary educational institution.

(g) "Council" means the Council for Private Postsecondary Educational Institutions established pursuant to Section 94304.

(h) "Degree" means any "academic degree" or "honorary degree" or title of any designation, mark, appellation, series of letters or words such as, but not limited to, associate, bachelor, master, doctor, or fellow which signifies, purports, or is generally taken to signify satisfactory completion of the requirements of an academic, educational, technological, or professional program of study beyond the secondary school level or is an honorary title conferred for recognition of some meritorious achievement.

(i) "Diploma" means any "diploma," "certificate," "transcript," "document," or other writing in any language other than a degree.

(j) "Education" or "education services" includes, but is not limited to, any class, course, or program of training, instruction, or study.

(k) "Superintendent" refers to the Superintendent of Public Instruction.

(*l*) "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(m) "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which educational services are offered or educational degrees or diplomas are offered or granted.

(n) "Postsecondary educational institution" or "institution" includes, but is not limited to, an academic, vocational, technical, business, professional, home study school, college, or university, or other organization (comprised of a person, firm, association, partnership, or corporation) which offers educational degrees or diplomas, or offers instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance. Auxiliary organizations of the California State University are not included within this division and are not governed by this article.

(o) "Vocational objective" means an objective which is ordinarily attained upon completion of a course which qualifies the person or leads to employment in a recognized occupation listed in the latest "Dictionary of Occupational Titles," issued by the United States Department of Labor, or declared by that department to be eligible for such listing, or leading to an employable objective determined by the council.

(p) "Professional objective" means an objective which ordinarily is attained upon the completion of a curriculum or program of studies leading to a recognized profession or semiprofession.

(q) "Educational objective" means an objective which ordinarily is attained upon the completion of a program consisting of any curriculum, or any combination of unit courses or subjects offered by an educational institution which normally leads to earning a college degree.

(r) "Technological objective" means one which is ordinarily attained upon completion of a curriculum or program of studies which emphasizes the application of principles to the solution of practical problems rather than the theoretical development of those principles.

(s) "Accredited" means that an institution has been recognized or approved as meeting the standards established by an accrediting agency recognized by the United States Department of Education or the Committee of Bar Examiners for the State of California. It shall not include those institutions which have applied for accreditation and are candidates for accreditation or have provisional accreditation.

(t) "Occupational skill, knowledge, or ability" means any fundamental or advanced competency which increases an

individual's employability or potential, effectiveness, or expertise in a vocation or profession, including, but not limited to, self-employment, business, or financial ventures.

(u) "Instruction" includes any specific, formal arrangement by an institution for its enrollees to participate in learning experiences wherein the institution's faculty or contracted instructors present a planned curriculum appropriate to the enrollee's educational program.

(v) "Certificate of authorization for service" means a written, nontransferable document issued by the superintendent authorizing an individual to be an instructor or administrator in any private postsecondary institution in California which is approved under subdivision (d) of Section 94311.

SEC. 2. Section 94331 of the Education Code is amended to read:

94331. The superintendent shall establish and maintain a Private Postsecondary Education Administration Fund. All fees collected pursuant to this section shall be credited to this fund, along with any interest on the money, for administration of the provisions of this chapter. The money in the fund is continuously appropriated to the State Department of Education without regard to fiscal years. However, if the Legislature makes an appropriation for the support of the Office of Private Postsecondary Education in the Budget Act of any fiscal year, the amount for support of the Office of Postsecondary Education expended from the Private Postsecondary Education Administration Fund during that fiscal year shall not exceed the amount appropriated by the Budget Act.

For the approval or authorization of private institutions operating under this chapter, including the licensure of institutions operating pursuant to paragraph (2) of subdivision (a) of Section 94310, the superintendent shall charge an amount not exceeding the actual costs of approving or authorizing the private institutions. However, in no case shall these fees exceed the fee schedule in this section, except that these maximum amounts may be increased by a percentage that reflects an increase in the Consumer Price Index, all items of the Bureau of Labor Statistics of the United States Department of Labor, measured for the calendar year preceding the fiscal year to which it applies. If the actual costs incurred exceed the proceeds of the maximum amount so computed, the superintendent may further increase the maximum fee up to the amount of the actual costs incurred, with the approval of the council. The superintendent shall annually publish a schedule of the current fees to be charged pursuant to this section and shall make this schedule generally available to the public.

The following fee schedule shall govern the fees to be paid by private institutions operating under this chapter:

(a) For approval to issue specified degrees pursuant to subdivision (b) of Section 94310:

(1) Fifteen hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) Five hundred dollars ($500) for an institution's additional degree title.

(b) For authorization to issue degrees pursuant to subdivision (c) or (d) of Section 94310:

(1) One thousand five hundred dollars ($1,500) for an institution's original application.

(2) Five hundred dollars ($500) for an institution's annual renewal.

(3) Two hundred dollars ($200) for an institution's change of ownership.

(c) For authorization to issue diplomas or offer courses pursuant to subdivision (c) of Section 94311:

(1) (A) Four hundred dollars ($400) for a new institution.

(B) Two hundred fifty dollars ($250) for an institution converting from approval pursuant to subdivision (d) of Section 94311.

(C) Two hundred dollars ($200) for a new or converted institution of an administrative family.

(2) (A) Two hundred dollars ($200) for an annual renewal of a new or converted institution.

(B) One hundred dollars ($100) for an annual renewal of an administrative family institution.

(d) For approval to issue diplomas or offer courses pursuant to subdivision (d) of Section 94311:

(1) (A) Five hundred dollars ($500) for a new institution.

(B) Two hundred fifty dollars ($250) for a new institution of an administrative family.

(C) Two hundred dollars ($200) for a new institution of a nonprofit public benefit corporation, organized pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code, if such education is limited to instruction in employment and skill training and if it is offered at no charge to those persons receiving such education.

(2) (A) Two hundred twenty-five dollars ($225) for an institution's annual renewal.

(B) One hundred dollars ($100) for an annual renewal of an institution of an administrative family and for an annual renewal of an institution described in subparagraph (C) of paragraph (1) of subdivision (d).

(3) Two hundred dollars ($200) for an institution's change of ownership.

(4) One hundred fifty dollars ($150) for an institution's change of location.

(5) One hundred dollars ($100) for an institution's additional

course.

(e) For an annual filing by an ownership to offer career-related education pursuant to Section 94315: two hundred dollars ($200).

(f) For purposes of this section, "administrative family" refers to two or more institutions under common ownership, and the ownership maintains centralized administration, records, and reporting at one California location, and has at least a five-year history of private postsecondary education operations in California.

(g) For evaluation of an applicant for a certificate of authorization for service, issued pursuant to paragraph (3) of subdivision (d) of Section 94311, the original and renewal applications for a three-year authorization shall be accompanied by a twenty-five dollar ($25) fee.

(h) For a private school agent's permit pursuant to Section 94333: twenty-five dollars ($25) annually per applicant.

(i) For agencies with three or fewer employees:

(1) Seven hundred fifty dollars ($750) for an original application.

(2) Five hundred dollars ($500) for the agency's annual renewal.

(3) Five hundred dollars ($500) for the agency's change of ownership.

(j) For agencies with four or more employees:

(1) One thousand five hundred dollars ($1,500) for an original application.

(2) One thousand dollars ($1,000) for the agency's annual renewal.

(3) One thousand dollars ($1,000) for the agency's change of ownership.

(k) This section shall not apply to any agency recruiting solely for institutions described in Section 94310.1.

SEC. 3. Section 94334 is added to the Education Code, to read:

94334. (a) Except as otherwise specified in subdivision (g), any agency, as defined by subdivision (a) of Section 94302, shall be required to hold a valid authorization issued by the superintendent. The application for an authorization shall include all of the following:

(1) A current financial statement prepared by a certified public accountant

(2) Evidence of a surety bond making provision for indemnification of any person for any material loss suffered as a result of any fraud or misrepresentation used in connection with the solicitation for the sale or the sale of any course of study. The term of the bond shall extend over the period of the authorization. The bond shall provide for liability in the penal sum of one hundred thousand dollars ($100,000) for each agency to which coverage is extended by its terms. Neither the principal nor surety on a bond may terminate the coverage of the bond except upon giving 30 days' prior written notice to the superintendent.

(3) A copy of the student disclosure statement to be read and signed by all prospective students referred to institutions by an agency. The student disclosure statement shall include, but not be limited to, all of the following:

(A) A statement to the effect that no promise of employment has been made by the agency.

(B) A statement to the effect that repayment of any debt incurred by a student in connection with his or her education will be the sole responsibility of the student.

(C) The amount and terms of any fee to be paid by the student to the agency.

(D) A verbatim statement, as follows:

"Any questions or problems concerning this agency should be directed to the Superintendent of Public Instruction, State Department of Education, Sacramento, California 94244-2720.

(E) A statement to the effect that the institution or institutions to which the prospective student is referred by the agency has the obligation to make available to the student a catalog or brochure containing information describing all of the following:

(i) The courses offered.

(ii) Program objectives.

(iii) Length of program.

(iv) The faculty and their qualifications.

(v) Schedule of tuition, fees, and all other charges and expenses necessary for the completion of the course of study.

(vi) Cancellation and refund policies.

(vii) Total cost of tuition over the period needed to complete the student's education.

(viii) For vocational training programs for which specific placement claims are made, placement data, including program completion rates, placement rates, and starting salaries.

(ix) Other material facts concerning the institution and the program or course of instruction that are reasonably likely to affect the decision of the student to enroll in the institution.

(4) Identification of all employees of the agency and their titles.

(5) Identification of all owners and if the entity is a corporation the identification of all persons possessing an interest equal to, or in excess of, 10 percent.

(6) Identification of all vendors of educational services for which the agency provides recruitment services.

(7) A signed statement by the applicant that all employees engaged in recruitment activities will be required to read Section 94320.

(b) Within 15 days of receipt of a completed application and prior to issuance of an authorization a representative of the superintendent shall inspect the applicant agency and verify the application. Within 30 days of the inspection the superintendent shall issue the authorization for a one-year period, subject to annual renewal at the end of that period, or deny the application.

(c) Any employee of an authorized agency engaged in student recruitment activities of an authorized agency is exempt from the permit requirements of Section 94333.

(d) Neither the agency nor any of its employees shall engage in

the sales, collection, credit, or other practices of any type that are false, deceptive, misleading, or unfair.

(e) Any institution authorized or approved under this chapter shall cease any and all recruitment activities involving the agency upon action by the superintendent to revoke or deny an agency authorization. Failure of the institution to do so upon presentation of notice of the superintendent's action shall be cause to deny or revoke any authorization or approval held by that institution.

(f) Any agency engaged in recruiting activities on January 1, 1989, may continue its recruiting activities but shall make an application to the superintendent as required by this section within 30 days of the application becoming available and the superintendent, within 30 days of the receipt of the application, shall issue the authorization for a one-year period or deny authorization. Thereafter, the agency shall possess a current authorization in order to continue to operate.

(g) This section shall not apply to any agency recruiting solely for institutions described in Section 94310.1.

CHAPTER 1065

An act to amend Section 8880.32 of the Government Code, relating to the California State Lottery.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 8880.32 of the Government Code is amended to read:

8880.32. Validation and Payment of Prizes

The Commission shall promulgate rules and regulations to establish a system of verifying the validity of prizes and to effect payment of such prizes, provided:

(a) For convenience of the public, Lottery Game Retailers may be authorized by the Commission to pay winners of up to six hundred dollars ($600) after performing validation procedures on their premises appropriate to the Lottery Game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the Lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the Lottery Game involved, purchased by a minor, or not in compliance with such additional specific rules and regulations and confidential validation and security tests appropriate to the particular Lottery Game. The Lottery may pay a prize of less than one million dollars ($1,000,000) even though the actual winning ticket is not received by the Lottery if the Lottery

validates the claim for the prize based upon substantial proof.

The Commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any Lottery Game may be paid more than once, and in the event the Commission reaches a binding determination that more than one claimant is entitled to a particular prize, the sole remedy of the claimants is the award to each of them of an equal share in the prize and the Commission shall direct the Controller to disburse the award to the claimants in equal shares.

(d) The Commission may specify that winners of less than twenty-five dollars ($25) claim the prizes from either the same Lottery Game Retailer from whom it was purchased or from the Lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the Lottery Game or play in which the prize was won. The Commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the Lottery Commission within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each Lottery Game, the Commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a Lottery Game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the Lottery Commission.

(g) The right of any person to a prize shall not be assignable, except that payment of any prize may be paid to the estate of a deceased prize winner or to a person designated pursuant to an appropriate judicial order. In the event that there is no probate, the prize shall be distributed in accordance with Section 21211. The Director, the Commission, and the state shall be discharged of all further liability upon the payment of a prize pursuant to this subdivision.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the Commission or to any officer or employee of the Commission or to any spouse, child, brother, sister, or parent of that person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 2. The Legislature finds and declares that this act furthers the purpose of the California State Lottery Act of 1984.

CHAPTER 1066

An act to amend Sections 11008.14, 11404, 11405, and 11460 of, and to add Sections 11263.5, 11401.4, and 11465 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares that many infants of minor mothers who are dependents of the court and who are placed into foster care are at a greater risk of physical and emotional abuse and neglect than are babies of other minor mothers. Because of their own history of abuse and neglect, their minority and instability, these mothers need support to ensure the proper care of their infants. The Legislature also finds and declares that the current system encourages these mothers to seek public welfare support which tends to continue the generational cycle of dependency.

(b) (1) It is the intent of the Legislature that minor mothers in foster care be provided with services and support to prevent the infants from becoming dependents of the court due to the minor mother's inability to care for the infant.

(2) It is further the intent of the Legislature to decrease the likelihood that the minor mother will depend upon public welfare as the primary source of support for herself and her infant.

(3) Finally, it is the intent of the Legislature that a child whose care is included in the aid payment of a parent who is a recipient of AFDC-FC also be considered an AFDC-FC recipient.

SEC. 2. Section 11008.14 of the Welfare and Institutions Code, is amended to read:

11008.14. To the same extent as required by federal law, the income of the natural or adoptive parent, and the spouse of the natural or adoptive parent, and the sibling of an eligible child, living in the same home with an eligible child shall be considered available, in addition to the income of an applicant for or recipient of aid under Chapter 2 (commencing with Section 11200), for purposes of eligibility determination and grant computation. Except as otherwise provided in this section, in the case of a parent or legal guardian of a minor who is also the parent of an eligible child, the income of the parent or guardian shall be considered available to the minor parent and eligible child to the same extent that income to a stepparent is considered available to an assistance unit, consistent

with federal law.

This section shall be applied to all applicants for, and recipients of, Aid to Families with Dependent Children provided under Chapter 2 (commencing with Section 11200), except that income of a guardian of an applicant for, or recipient of, foster care benefits provided under Article 5 (commencing with Section 11400) of Chapter 2 shall not be considered available to the ward or to a child of the ward for the purpose of eligibility determination and grant computation under Article 5 (commencing with Section 11400) of Chapter 2. This section shall be applied regardless of whether federal financial participation is available for the family.

SEC. 3. Section 11263.5 is added to the Welfare and Institutions Code, to read:

11263.5. Notwithstanding any other provision of this chapter, a child living with his or her parent, where the parent is a minor and a recipient of foster care pursuant to Article 5 (commencing with Section 11400), is not an eligible child within the meaning of this chapter for the purpose of payment of AFDC benefits other than AFDC-FC benefits.

SEC. 4. Section 11401.4 is added to the Welfare and Institutions Code, to read:

11401.4. A child living with his or her parent who is a minor and a recipient of AFDC-FC benefits shall be deemed a child with respect to whom AFDC-FC payments are made.

SEC. 5. Section 11404 of the Welfare and Institutions Code is amended to read:

11404. (a) Except as provided in Section 11405, a child is not eligible for AFDC-FC unless responsibility for placement and care of the child is with the county welfare department, the county probation department which has an agreement with the county welfare department, or a licensed public adoption agency, licensed private adoption agency or the department.

(b) In order for the child to be eligible for AFDC-FC, the agency with responsibility for the child's placement and care shall in accordance with departmental regulations:

(1) For children removed after October 1, 1983, document that it provided preplacement preventive services to the child prior to the child's placement in foster care, and document why provisions of these services were not successful in maintaining the child in his or her home, unless it is documented that these services were not provided due to:

(A) Either the voluntary relinquishment of the child by one or both parents or court action declaring a child free from the custody and control of one or both parents.

(B) The child's residence with a nonrelated legal guardian.

(2) Develop a written assessment of the reasons necessitating the child's placement in foster care and the treatment needs of the child while in foster care to be updated by the agency no less frequently than once every six months. Where the child is a parent who has a

child living with him or her in the same eligible facility, the assessment shall also address the needs of his or her child.

(3) Develop a case plan for the child within 30 days of placement.

(4) Ensure that services are provided to return the child to his or her own home or establish an alternative permanent placement for the child if return home is not possible or is inappropriate.

SEC. 6. Section 11405 of the Welfare and Institutions Code is amended to read:

11405. (a) AFDC-FC shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

(1) Developing a written assessment of the child's needs;

(2) Updating the assessment no less frequently than once every six months;

(3) Carrying out the case plan developed by the county.

(b) When AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall:

(1) Develop a written assessment of the child's needs;

(2) Update such assessments no less frequently than once every six months;

(3) Develop a case plan that specifies how the problems identified in the assessment are to be addressed;

(4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

(c) Where the child is a parent and has a child living with him or her in the same eligible facility, the assessment required by paragraph (1) of subdivision (a) shall include the needs of his or her child.

SEC. 7. Section 11460 of the Welfare and Institutions Code is amended to read:

11460. (a) It is the intent of the Legislature that rates paid providers on behalf of children placed in foster care shall be determined in accordance with Section 11462, 11462.1, 11462.2, 11463, 11464 or 11465. These rates shall be paid for care and supervision of children receiving assistance under the AFDC-FC program.

(b) The department is designated the single organizational unit whose duty it shall be to administer a state system for establishing rates in the AFDC-FC program. State functions shall be performed by the department or by delegation of the department to county welfare departments. The department may contract with an appropriate public or private audit agency for the performance of audits of payments made to AFDC-FC providers.

SEC. 8. Section 11465 is added to the Welfare and Institutions Code, to read:

11465. (a) When a child is living with a parent who receives AFDC-FC benefits, the rate paid to the provider on behalf of the parent shall include an amount for care and supervision of the child.

(b) For each category of eligible licensed community care facility,

as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) Subject to the availability of funds, for the 1989–90 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

SEC. 9. The State Department of Social Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement this act. The adoption of regulations pursuant to this section in order to implement this act shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted pursuant to this section shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 120 days unless the adopting agency complies with all of the provisions of Chapter 3.5 (commencing with Section 11340) as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 11. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution, and shall go into immediate effect. The facts constituting the necessity are:

In order to timely implement a provision of the federal Omnibus Budget Reconciliation Act of 1987 which amended Title IV-E of the Social Security Act, to include in the payments for foster children who are parents, the cost of care for any of their children living with them in placement, it is necessary that this act take effect immediately.

CHAPTER 1067

An act to add and repeal Section 42685 of the Food and Agricultural Code, relating to food.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 42685 is added to the Food and Agricultural Code, to read:

42685. (a) Upon recommendation of the commissioner and upon making a finding that extraordinary circumstances have resulted in the need for inspection of imported fruits, nuts, or vegetables pursuant to this division, the board of supervisors of a county may establish a schedule of fees to be charged the importer, by the commissioner, for the recovery of costs connected with the commissioner's inspection in order to assure compliance with this division. This authority applies only to inspections conducted at ports of entry or points of initial availability inspected by the commissioner.

(b) (1) The authority of the board of supervisors to establish a schedule of fees under this section applies only when a mandatory inspection or certification program presently exists in the state for the same commodity and where a fee is collected pursuant to authority granted in Article 5 (commencing with Section 42761) or Article 6 (commencing with Section 42791).

(2) In no case may the fees established for inspection of imported fruits, nuts. and vegetables exceed the fees set for the mandatory inspection or certification program.

(3) The director may adopt regulations, including, but not limited to, establishing recommended county enforcement cost recovery fees.

(c) In addition to any other penalties available under the law, the commissioner may place a hold order on any lot of fruits, nuts, or vegetables on which he or she has assessed a fee pursuant to this section if the importer has failed to pay that fee.

(d) This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

CHAPTER 1068

An act to amend Section 24562 of, and to add Section 24322 to, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 24322 is added to the Revenue and Taxation Code, to read:

24322. (a) Gross income of a domestic building and loan association, as defined in Section 7701(a)(19) of the Internal Revenue Code, does not include any amount of money or other property received from the Federal Savings and Loan Insurance Corporation pursuant to Section 406(f) of the National Housing Act (12 U.S.C. Section 1729(f)), regardless of whether any note or other instrument is issued in exchange therefor.

(b) No reduction in the basis of assets of a domestic building and loan association shall be made on account of money or other property received under the circumstances referred to in subdivision (a).

(c) Section 24425 shall not deny any deductions by reason of the deductions being allocable to amounts excluded from gross income under this section.

(d) This section shall not apply with respect to any amounts excludable under subdivision (a) received after December 31, 1988, in income years ending after that date, unless the payments are made by the Federal Savings and Loan Insurance Corporation pursuant to an acquisition or merger which occurred on or before December 31, 1988.

SEC. 2. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapter 8 (commencing with Section 24451), Chapter 9 (commencing with Section 24501), and this chapter, "reorganization" means any of the following:

(1) A statutory merger or consolidation.

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of that other corporation (whether or not the acquiring corporation had control immediately before the acquisition).

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another

corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded.

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(5) A recapitalization.

(6) A mere change in identity, form, or place of organization of one corporation, however effected.

(7) A transfer by a corporation of all or part of its assets to another corporation in a Title 11 or similar case; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a), then, for purposes of this chapter, the transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If:

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then the acquisition shall (subject to paragraph (1) of this subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), (2), or (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring the assets or stock. A similar rule shall apply

to a transaction otherwise qualifying under paragraph (7) of subdivision (a) where the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) or paragraph (7) of subdivision (a), if both of the following apply:

(A) No stock of the acquiring corporation is used in the transaction.

(B) In the case of a transaction under paragraph (1) of subdivision (a), the transaction would have qualified under paragraph (1) of subdivision (a) had the merger been into the controlling corporation.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if both of the following apply:

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction).

(B) In the transaction, former shareholders of the surviving corporation exchanged. for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph, "investment company" means a regulated investment company, a real estate investment

trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph does not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to that investment company and its shareholders and security holders as though its assets had been acquired by that other corporation. If the investment company acquires stock of another corporation in a reorganization described in paragraph (2) of subdivision (a) of Section 24562 (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of that investment company as though they had exchanged with the other corporation all of their stock in the investment company for stock having a fair market value equal to the fair market value of their stock of the investment company immediately after the exchange.

(G) For purposes of subparagraphs (B) and (C), "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36).

(7) (A) A transaction shall fail to meet the requirements of paragraph (3) of subdivision (a), unless the acquired corporation distributes the stock, securities, and other properties it receives, as well as its other properties, in pursuance of the plan of reorganization.

(B) The Franchise Tax Board may waive the application of subparagraph (A) to any transaction subject to any conditions the Franchise Tax Board may prescribe.

(c) The amendments made to this section by the 1971 First

Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

(d) (1) For purposes of this chapter, "Title 11 or similar case" means—

(A) A case under Title 11 of the United States Code, to the extent this chapter is not in conflict with Section 346(q) (17) (C) of Title 11, or

(B) A receivership, foreclosure, or similar proceeding in a federal or state court.

(2) In applying paragraph (7) of subdivision (a), a transfer of the assets of a corporation shall be treated as made in a Title 11 or similar case only if both of the following apply:

(A) Any party to the reorganization is under the jurisdiction of the court in that case.

(B) The transfer is pursuant to a plan of reorganization approved by the court.

(3) If a transaction (but for this paragraph) qualifies both—

(A) Under paragraph (7) of subdivision (a), and

(B) Under any other paragraph of subdivision (a) or under Section 24502 or 24521, then, for purposes of this chapter (other than Section 24540(c) (1)), the transaction shall be treated as qualifying only under paragraph (7) of subdivision (a).

(4) For purposes of paragraphs (1) and (2), in the case of a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 585 or 593 of the Internal Revenue Code applies, the agency shall be treated as a court.

(5) In the case of a Title 11 or similar case, the requirement of subparagraph (B) of paragraph (5) of subdivision (b) shall be treated as met if both of the following apply:

(A) No former shareholder of the surviving corporation received any consideration for his or her stock.

(B) The former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80 percent or more of the total fair market value of the debt of the surviving corporation.

(6) (A) For purposes of paragraphs (1) and (2), in the case of a financial institution to which Section 593 of the Internal Revenue Code applies, the term "Title 11 or similar case" means only a case in which the board (which will be treated as the court in such case) makes the certification described in subparagraph (B).

(B) A transaction otherwise meeting the requirements of paragraph (7) of subdivision (a), in which the transferor corporation is a financial institution to which Section 593 of the Internal Revenue Code applies, will not be disqualified as a reorganization if no stock or securities of the corporation to which the assets are transferred are received or distributed, but only if all of the following conditions are met:

(i) The requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets,

(ii) Substantially all of the liabilities of the transferor immediately before the transfer become, as a result of the transfer, liabilities of the transferee, and

(iii) The board certifies that the grounds set forth in Section 1464(d)(6)(a)(i), (ii), or (iii) of Title 12, United States Code, exist with respect to the transferor or will exist in the near future in the absence of action by the board.

(C) For purposes of this subdivision, "board" means the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation or, if neither has supervisory authority with respect to the transferor, the equivalent state authority.

(D) This paragraph shall not apply to acquisitions after December 31, 1988, nor to income years beginning after December 31, 1988.

SEC. 3. (a) The Legislature hereby finds and declares all of the following:

(1) There is a serious and urgent public need to facilitate the recovery of financially troubled savings and loans in California in order to protect the interests of California depositors and employees.

(2) In investing in troubled California savings and loans, financial institutions and investors have relied upon California following federal tax law with respect to the income and franchise tax treatment of the reorganization of savings and loans as well as the tax treatment of assistance payments received by savings and loans from the Federal Savings and Loan Insurance Corporation.

(3) Any uncertainty regarding the California income and franchise tax treatment of the reorganization of savings and loans and the Federal Savings and Loan Insurance Corporation assistance payments would seriously discourage and undermine the infusion of investment capital necessary to stabilize troubled California savings and loans.

(4) It is in the public interest for the Legislature to reaffirm and make clear that California law concerning the income and franchise tax treatment of the reorganization of savings and loans and the treatment of Federal Savings and Loan Insurance Corporation assistance payments has conformed and does conform to federal tax treatment of such transactions.

(b) It is the intent of the Legislature that this act constitutes a declaration of existing California law. It is further the intent of the Legislature that the California income and franchise tax treatment of any reorganization of a savings and loan and any assistance from the Federal Savings and Loan Insurance Corporation shall be identical to the federal income tax treatment of the reorganization and Federal Savings and Loan Insurance Corporation assistance under the provisions of Sections 368 and 597 of the Internal Revenue Code of 1986. Enacting those clarification provisions in this bill would serve the public interest by providing clear and consistent rules as

well as preclude unnecessary and costly litigation, which would delay, if not prevent, essential reorganizations. The Legislature further finds and declares that any revenue implications associated with reorganizations of financially troubled or bankrupt entities are the direct result of conformity by California in 1982 with the federal changes in 1980 with respect to the reorganization of bankrupt entities.

SEC. 4. The Franchise Tax Board shall submit a report of the revenue impact of this act as of December 1, 1989, to the Legislature on or before January 30, 1990.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1069

An act to amend Section 56455 of the Government Code, relating to governmental reorganization.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 56455 of the Government Code is amended to read:

56455. If an independent special district adopts a resolution pursuant to subdivision (a) of Section 56453, it shall immediately forward a copy of the resolution to the executive officer. Upon receipt of those resolutions from a majority of independent special districts within a county, the commission, at its next regular meeting, shall, by majority vote of those present and voting on the issue, either approve or disapprove special district representation on the commission. The commission shall give notice of the meeting at which it intends to vote on the issue in the manner prescribed in Section 56459. If the commission approves that representation, it shall immediately adopt a resolution of intention pursuant to Section 56458. If the commission disapproves that representation, all further proceedings under this chapter shall cease. If the commission disapproves special district representation on the commission, within 45 days following the disapproval vote it shall make available to any person upon written request a written statement setting forth the reasons for disapproval

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1070

An act to amend Section 411.35 of the Code of Civil Procedure, relating to civil actions.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 411.35 of the Code of Civil Procedure is amended to read:

411.35. (a) In every action including a cross-complaint for damages or indemnity arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint on any defendant, the plaintiff's attorney shall file the certificate specified by subdivision (b).

(b) A certificate shall be executed by the attorney for the plaintiff or cross-complainant declaring one of the following:

(1) That the attorney has reviewed the facts of the case, that the attorney has consulted with at least one architect, professional engineer, or land surveyor who is licensed to practice and practices in this state or any other state, or who teaches at an accredited college or university and is licensed to practice in this state or any other state, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of such review and consultation that there is reasonable and meritorious cause for the filing of such action. The person consulted may not be a party to the litigation.

(2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate architects, professional engineers, or land surveyors to obtain such consultation

and none of those contacted would agree to such a consultation.

(c) Where a certificate is required pursuant to this section, only one certificate shall be filed, notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.

(d) Where the attorney intends to rely solely on the doctrine of "res ipsa loquitur," as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of "res ipsa loquitur" or failure to inform of the consequences of a procedure or both, and for that reason is not filing a certificate required by this section.

(e) For purposes of this section, and subject to Section 912 of the Evidence Code, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the architect, professional engineer, or land surveyor consulted and the contents of the consultation. The privilege shall also be held by the architect, professional engineer, or land surveyor so consulted. If, however, the attorney makes a claim under paragraph (3) of subdivision (b) that he or she was unable to obtain the required consultation with the architect, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, professional engineers, or land surveyors refusing the consultation.

(f) A violation of this section may constitute unprofessional conduct and be grounds for discipline against the attorney, except that the failure to file the certificate required by paragraph (1) of subdivision (b), within 60 days after filing the complaint and certificate provided for by paragraph (2) of subdivision (b), shall not be grounds for discipline against the attorney.

(g) The failure to file a certificate in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(h) Upon the favorable conclusion of the litigation with respect to any party for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the trial court may, upon the motion of a party or upon the court's own motion, verify compliance with this section, by requiring the attorney for the plaintiff or cross-complainant who was required by subdivision (b) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (b) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in an in-camera proceeding at which the moving party shall not be present. If the trial judge finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees,

incurred by another party as a result of the failure to comply with this section.

This section shall remain in effect only until January 1, 1992, and as of that date is repealed.

CHAPTER 1071

An act to amend Section 15043 of, to amend and renumber Sections 5253, 5254, and 5259 of, to add Sections 12006 and 12007 to, and to repeal Sections 5250, 5251, and 5252 of, the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 5250 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 5251 of the Unemployment Code is repealed.

SEC. 3. Section 5252 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 5253 of the Unemployment Insurance Code is amended and renumbered to read:

12008. The board shall make a report to the Legislature on January 1 of each year on the number of jobs which have been created pursuant to this division, the number of employed, the cost to the state, and the number of persons who enter permanent employment not supported pursuant to this division.

SEC. 5. Section 5254 of the Unemployment Insurance Code is amended and renumbered to read:

12009. All jobs developed under the provisions of this chapter shall pay the prevailing rates paid to persons employed in similar public occupations by the same employer, but in no case shall wages be paid which are less than the amount required by Section 433(e)(4) of the Social Security Act.

SEC. 6. Section 5259 of the Unemployment Insurance Code is amended and renumbered to read:

12010. For the purposes of this program, and notwithstanding any other provision of the law, involuntary deductions plus work-related expenses shall not be more than allowed under Section 11451.6 of the Welfare and Institutions Code.

SEC. 7. Section 12006 is added to the Unemployment Insurance Code, to read:

12006. The board shall ensure that a sum of no less than one million dollars ($1,000,000) be available to cities, counties, units of state or local government, Indian tribes recognized by the Bureau of Indian Affairs, and any nonprofit employer organized for a public

purpose, which develop jobs providing or leading to permanent employment for registrants for the program established under Section 11320 of the Welfare and Institutions Code.

SEC. 8. Section 12007 is added to the Unemployment Insurance Code, to read:

12007. (a) In order to carry out the purpose of Section 12006, the State Department of Social Services may pay to the board an amount necessary to ensure that employers receive up to 100 percent of the wages to be paid to individuals employed pursuant to the Career Opportunities Development Program and registered pursuant to the program established under Section 11320 of the Welfare and Institutions Code.

(b) The State Department of Social Services, in consultation with the board, shall ensure coordination of resources necessary to carry out this provision and Section 12006.

SEC. 9. Section 15043 of the Unemployment Insurance Code is amended to read:

15043. Service delivery area plans shall contain provisions required by the federal Job Training Partnership Act and this division, including but not necessarily limited to, the following:

(a) A description of the service delivery area's system for administering and delivering services including private industry council membership.

(b) A description of, and the rationale for, the service delivery area's eligibility and services priorities, the types of services and training provided, the industries and occupations of training, the criteria for the content and quality of training, the entities delivering services, and the performance measures used.

(c) A description of the coordination with and the uses made of other agencies and organizations within the service delivery area providing job training, vocational education, client advocacy, child care and employment services, which shows the value of these other resources in addressing the needs reflected in the plan. This shall include a description of how the plan meets the needs of participants served under county plans developed pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) A proposed budget for the planning period describing program objectives, services to be provided for the purpose of achieving those objectives, the sources and amounts of funds to be allocated to each type of service, and estimates of the number of persons in each eligibility category in need and the number of persons in each eligibility category to be served by each type of service. The budget shall also describe administrative objectives, the purpose and rationale for such objectives, and the sources and amounts of funds to be allocated to each objective.

(e) A status report on the activities of the current fiscal year describing progress toward achieving program and administrative objectives as well as other legislative requirements imposed by the

current budget, including the current status and financial condition of the federal and state funds allocated to the service delivery area and the capacity to meet current year objectives.

(f) A description of the activities, financial condition and accomplishments of the service delivery area's job preparation and training services program for the preceding fiscal year, including a description of the extent to which program and administrative objectives set forth for that year were realized, and a description of expenditures by sources of funds for services provided pursuant to this division in that year.

(g) A description of the condition of job preparation and training services taking place in the service delivery area, including an analysis of issues confronting the program and recommendations appropriate to resolve such issues.

(h) A description of the unmet child care needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

(i) Assurance that economically disadvantaged women and minorities will be served with federal Job Training Partnership Act funds, with respect to Title I and Title II of the act, at a rate that approximates their rate of representation and need for job training among the economically disadvantaged within each service delivery area. If the goals of the plan are not designed to comply with this subdivision, the private industry council shall submit its justification for noncompliance to the State Job Training Coordinating Council and the Governor.

(j) Assurance that subdivision (g) of Section 15032 is adhered to within each service delivery area. Each service delivery area shall specify its plan for adhering with subdivision (g) of Section 15032, including, but not limited to, outreach to the target population.

(k) A procedure for ensuring that no funds are expended on participant training or supportive services for participants who are eligible for vocational rehabilitation under Section 139.5, and Division 4 (commencing with Section 3200), of the Labor Code.

CHAPTER 1072

An act to amend Section 9315 of, and to add Section 9315.5 to, the Welfare and Institutions Code, relating to seniors.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 9315 of the Welfare and Institutions Code is amended to read:

9315. (a) The department shall implement by July 1, 1985, a new

intrastate funding formula in accordance with all federal regulations. This formula shall apply to all federal and state funds allocated for programs provided for under Title III of the federal Older Americans Act (42 U.S.C. Sec. 3021, et seq.).

The intrastate funding formula shall include all of the following:

(1) Assurances that all area agencies on aging shall have a fifty thousand dollar ($50,000) administrative base with the remainder of the allowable administrative dollars allocated to planning and service area on the basis of number of persons over the age of 60 years.

Area agencies on aging shall use no state funds for administrative purposes unless the funds are provided pursuant to subdivision (f) of Section 9354.

(2) When data is available, an annual update by the department for changes in population characteristics to include the number of persons per planning and service area over the age of 60 years and persons in greatest economic or social need as measured by all of the following variables which shall also be annually updated by the department:

(A) Number of persons over the age of 65 years receiving aid under the State Supplementary Program, provided for under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9.

(B) Number of persons over the age of 75 years.

(C) Number of minority elderly over the age of 60 years.

(D) Number of persons over the age of 60 years living alone.

(E) Number of non-English-speaking persons over the age of 60 years.

The weight given to each variable shall simulate the weighting used in the Washington State intrastate funding formula adjusting for the geographic factor.

(3) A rural factor which guarantees a 105 percent allocation to rural planning and service areas.

(4) A hold-harmless factor which guarantees that no planning and service area shall have its federal and state allocation of funds under Title III of the federal Older Americans Act (42 U.S.C., Sec. 3021, et seq.), excluding area agency on aging administrative costs and funds carried over from the 1983–84 fiscal year, reduced below the 1984–85 fiscal year funding levels.

(b) In the event that additional federal or state funds, in excess of those appropriated under the 1984–85 Budget Act, or subsequent Budget Acts are made available for services, these funds shall be used to maintain existing service levels, with the remainder to be distributed to those planning and service areas which have been determined by the department to be under equity until parity is achieved.

(c) One-time-only funds shall be distributed in accordance with the intrastate funding formula and shall be used for one-time-only purposes, including:

(1) The purchase of capital equipment which enhances the

delivery of services to those seniors identified as being in greatest social or economic need as determined by the local planning process.

(2) Home and community based long-term care projects which encourage families to maintain their elderly members in the home environment.

(3) Innovative pilot projects, as determined by the department.

Preference shall be given to those planning and service areas which have been determined by the Department of Aging to be under equity as defined in subdivision (b).

The department shall report annually, commencing December 1, 1988, to the Assembly Committee on Aging and Long Term Care and the Senate Subcommittee on Aging regarding the allocation of one-time-only funds in accordance with the provisions of this subdivision.

(d) The department shall develop, in conjunction with the intrastate funding formula, a methodology for assuring compliance with the state targeting strategy on an intraplanning and service area basis. In developing this methodology the department shall provide assurances that as additional federal and state service dollars are allocated to the planning and service areas these dollars will be expended on those elderly persons identified as in greatest economic or social need.

(e) For purposes of this section, "one-time-only funds" means the combination of unspent funds which were budgeted to an area agency on aging and unearned funds resulting from audit resolutions.

SEC. 2. Section 9315.5 is added to the Welfare and Institutions Code, to read:

9315.5. The department may, where necessary to ensure the continued provision of services or program operation, advance available state funds to an area agency on aging in an amount up to one-sixth of the annual state and federal allocation to the area agency on aging.

CHAPTER 1073

An act relating to the Public Utilities Commission.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. On or before March 31, 1989, the Public Utilities Commission shall, after a public hearing, prepare and submit to the Legislature a report containing information and an analysis of its findings and recommendations on the policies and practices of gas corporations in the procurement of gas, including, but not limited to,

spot market purchases, the storage of gas, and the curtailment of gas supplies. The report shall include an analysis of whether current commission policies assure that core customers are charged a price for procuring short-term gas supplies not greater than the average weighted cost of short-term gas supplies procured for all other customers, whether the commission should establish an advance approval process for new, long-term core customer gas procurement contracts entered into by gas corporations, and whether the commission should establish standby procurement charges for noncore sales and transportation customers. The report shall also include the commission's recommendations, if any, for legislation needed to improve these procurement, storage, and curtailment policies and practices.

CHAPTER 1074

An act to amend Section 739 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 739 of the Public Utilities Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life-support equipment, including, but not limited to, emphysema and pulmonary patients. A residential customer dependent on life-support equipment shall be given a higher energy allocation than the average residential customer.

"Life-support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility

both within and outside of buildings. "Life-support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating and cooling needs of those persons.

The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(c) (1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity and shall be established for the residential consumption of gas and electricity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage.

(2) In establishing residential electric and gas rates, including baseline rates, the commission shall assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable.

(d) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedule and excludes industrial, commercial, and every other category of customer.

(e) Wholesale electrical or gas purchases, and the rates charged therefor, are exempt from this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for

the purpose of achieving energy conservation.

(g) The commission shall establish a program of assistance to low-income electric and gas customers, the cost of which shall not be borne solely by any single class of customer.

CHAPTER 1075

An act to amend Sections 305, 335, 342, 366.21, 366.22, 366.25, and 366.26 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 305 of the Welfare and Institutions Code is amended to read:

305. Any peace officer may, without a warrant, take into temporary custody a minor:

(a) When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

(b) Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety.

(c) Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

(d) Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

SEC. 2. Section 335 of the Welfare and Institutions Code is amended to read:

335. (a) Upon the filing of the petition, the clerk of the juvenile court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause the same to be served upon the minor, if the minor is 10 or more years of age, and upon each of the persons described in subdivision (e) of Section 332 whose residence

addresses are set forth in the petition and thereafter before the hearing upon all such persons whose residence addresses become known to the clerk. The clerk shall issue a copy of the petition to the attorney for the minor's parent or guardian and to the district attorney, if the district attorney has notified the clerk of the court that he or she wishes to receive the petition, containing the time, date, and place of the hearing.

(b) If the minor is a ward of a guardian appointed pursuant to the Probate Code, the clerk of the juvenile court shall notify the probate department of the superior court which appointed the guardian of the proceedings in the juvenile court. The probation department or counsel for the minor, if any, may petition the probate department of the superior court to have the guardian removed pursuant to Chapter 9 (commencing with Section 2650) of Part 4 of Division 4 of the Probate Code.

SEC. 3. Section 342 of the Welfare and Institutions Code is amended to read:

342. In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a person described in Section 300, the petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

All procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

SEC. 4. Section 366.21 of the Welfare and Institutions Code is amended to read:

366.21. (a) Every hearing conducted by the juvenile court reviewing the status of a dependent child shall be placed on the appearance calendar. The court shall advise all persons present at the hearing of the date of the future hearing, of their right to be present and represented by counsel.

(b) Except as provided in Section 366.23 and subdivision (a) of Section 366.3, notice of the hearing shall be mailed by the probation officer to the same persons as in the original proceeding, to the minor's parent or guardian, to the foster parents, community care facility, or foster family agency having physical custody of the minor in the case of a minor removed from the physical custody of his or her parent or guardian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons, not earlier than 30 days nor later than 15 days preceding the date to which the hearing was continued.

The notice shall contain a statement regarding the nature of the hearing to be held and any change in the custody or status of the minor being recommended by the supervising agency. The notice to the foster parent shall indicate that the foster parent may attend all hearings or may submit any information he or she deems relevant to

the court in writing.

(c) At least 10 calendar days prior to the hearing the probation officer shall file a supplemental report with the court regarding the services provided or offered to the parents to enable them to assume custody, the progress made, and, where relevant, the prognosis for return of the minor to the physical custody of his or her parent or guardian, and make his or her recommendation for disposition. If the recommendation is not to return the minor to a parent, the report shall specify why the return of the minor would be detrimental to the minor. The probation officer shall provide the parent or parents with a copy of the report, including his or her recommendation for disposition, at least 10 calendar days prior to the hearing. In the case of a minor removed from the physical custody of his or her parent or guardian, the probation officer shall provide a summary of his or her recommendation for disposition to the counsel for the minor, any court appointed child advocate, foster parents, community care facility, or foster family agency having the physical custody of the minor at least 10 calendar days before the hearing.

(d) Prior to any hearing involving a minor in the physical custody of a community care facility or foster family agency that may result in the return of the minor to the physical custody of his or her parent or guardian, or in adoption or the creation of a legal guardianship, the facility or agency shall file with the court a report containing its recommendation for disposition. Prior to any such hearing involving a minor in the physical custody of a foster parent, the foster parent may file with the court a report containing its recommendation for disposition. The court shall consider any such report and recommendation prior to determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parents or guardians unless, by a preponderance of the evidence, it finds that the return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report, shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.5, and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided; shall make appropriate findings pursuant to subdivision (a) of Section 366; and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his or her parent or guardian. The court shall also inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a proceeding pursuant to Section

366.26 may be instituted. This section does not apply in a case where, pursuant to Section 361.5, the court has ordered that reunification services shall not be provided.

If the minor was removed initially under subdivision (g) of Section 300 and the court finds by clear and convincing evidence that the whereabouts of the parent are still unknown, or the parent has failed to contact and visit the child, the court may schedule a hearing pursuant to Section 366.26 within 120 days. If the court finds by clear and convincing evidence that the parent has been convicted of a felony indicating parental unfitness, the court may schedule a hearing pursuant to Section 366.26 within 120 days.

If the minor had been placed under court supervision with a previously noncustodial parent pursuant to Section 361.2, the court shall determine whether supervision is still necessary. The court may terminate supervision and transfer permanent custody to that parent, as provided for by paragraph (1) of subdivision (a) of Section 361.2.

In all other cases, the court shall direct that any reunification services previously ordered shall continue to be offered to the parent or guardian, provided that the court may modify the terms and conditions of those services. If the child is not returned to his or her parent or parents, the court shall determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents overcome the problems which led to the initial removal. The court shall order that those services be initiated or continued.

(f) At the review hearing held 12 months after the initial dispositional hearing, the court shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk or detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing that detriment. The court shall also determine whether reasonable services have been provided or offered to the parent or parents which were designed to aid the parent or parents to overcome the problems which led to the initial removal and continued custody of the minor. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental. The court also shall make a finding pursuant to subdivision (a) of Section 366.

(g) If a minor is not returned to the custody of a parent or guardian at the hearing held pursuant to subdivision (f), the court

shall do one of the following:

(1) Continue the case for up to six months for another review hearing, provided that the hearing shall occur within 18 months of the date the child was originally taken from the physical custody of his or her parent or guardian. The court shall continue the case only if it finds that there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months or that reasonable services have not been provided to the parent or parents. The court shall inform the parent or guardian that if the minor cannot be returned home by the next review hearing, a permanent plan shall be developed at that hearing. The court shall not order that a hearing pursuant to Section 366.26 be held unless there is clear and convincing evidence that reasonable services have been provided or offered to the parents.

(2) Order that the minor remain in long-term foster care, if the court finds by clear and convincing evidence, based upon the evidence already presented to it, that the minor is not adoptable and has no one willing to accept legal guardianship.

(3) Order that a hearing be held within 120 days, pursuant to Section 366.26.

(h) In any case in which the court orders that a hearing pursuant to Section 366.26 shall be held, it shall also order the termination of reunification services to the parent. The court shall continue to permit the parent to visit the minor pending the hearing unless it finds that visitation would be detrimental to the minor.

(i) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is four years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if

parental rights are terminated.

(j) This section shall apply to minors made dependents of the court pursuant to subdivision (c) of Section 360 on or after January 1, 1989.

SEC. 5. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) of subdivision (g) of Section 366.21, the court, at the 18-month hearing, shall order the return of the minor to the physical custody of his or her parent or guardian unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the physical or emotional well-being of the minor. The probation department shall have the burden of establishing the detriment. The failure of the parent or guardian to participate regularly in any court-ordered treatment programs shall constitute prima facie evidence that return would be detrimental. In making its determination, the court shall review the probation officer's report and shall review and consider the report and recommendations of any child advocate appointed pursuant to Section 356.6 and shall consider the efforts or progress, or both, demonstrated by the parent or guardian and the extent to which he or she cooperated and availed himself or herself of services provided. If the minor is not returned to a parent or guardian, the court shall specify the factual basis for its conclusion that return would be detrimental.

If the minor is not returned to a parent or guardian at the 18-month hearing and the court determines that reasonable services have been offered or provided to the parent or guardian, the court shall develop a permanent plan. The court shall order that a hearing be held pursuant to Section 366.26 in order to determine whether adoption, guardianship, or long-term foster care is the most appropriate plan for the minor. However, if the court finds by clear and convincing evidence, based on the evidence already presented to it that the minor is not adoptable and has no one willing to accept legal guardianship, the court may order that the minor remain in long-term foster care. The hearing shall be held no later than 120 days from the date of the 18-month hearing. The court shall also order termination of reunification services to the parent. The court may, if it is in the interests of the minor, continue to permit the parent to visit the minor.

(b) Whenever a court orders that a hearing pursuant to Section 366.26 shall be held, it shall direct the agency supervising the child and the licensed county adoption agency, or the State Department of Social Services when it is acting as an adoption agency in counties which are not served by a county adoption agency, to prepare an assessment which shall include:

(1) Current search efforts for an absent parent or parents.

(2) A review of the amount of and nature of any contact between the minor and his or her parents since the time of placement.

(3) An evaluation of the minor's medical, developmental, scholastic, mental, and emotional status.

(4) A preliminary assessment of the eligibility and commitment of any identified prospective adoptive parent or guardian, particularly the caretaker, to include a social history including screening for criminal records and prior referrals for child abuse or neglect, the capability to meet the minor's needs, and the understanding of the legal and financial rights and responsibilities of adoption and guardianship.

(5) The relationship of the minor to any identified prospective adoptive parent or guardian, the duration and character of the relationship, the motivation for seeking adoption or guardianship, and a statement from the minor, if the minor is four years of age or older, concerning placement and the adoption or guardianship.

(6) An analysis of the likelihood that the minor will be adopted if parental rights are terminated.

SEC. 6. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) In order to provide stable, permanent homes for children, a court shall, if the minor cannot be returned home pursuant to subdivision (e) of Section 366.2, conduct a permanency planning hearing to make a determination regarding the future status of the minor no later than 12 months after the original dispositional hearing in which the child was removed from the custody of his or her parent, parents, or guardians, and in no case later than 18 months from the time of the minor's original placement pursuant to Section 319 or 16507.4 and periodically, but no less frequently than once each 18 months, thereafter during the continuation of foster care. The permanency planning hearing may be combined with the six months' review as provided for in Section 366. In the case of a minor who comes within subdivision (b) of Section 361.5 and for whom the court has found that reunification services should not be provided, a permanency planning hearing shall be held pursuant to Section 361.5.

(b) Notice of the proceeding to conduct the review shall be mailed by the probation officer to the same persons as in an original proceeding, to the minor's present custodian, and to the counsel of record, by certified mail addressed to the last known address of the person to be notified, or shall be personally served on those persons not earlier than 30 days, nor later than 15 days prior to the date the review is to be conducted.

(c) Except in cases where permanency planning is conducted pursuant to Section 361.5, the court shall first determine at the hearing whether the minor should be returned to his or her parent or guardian, pursuant to subdivision (e) of Section 366.2. If the minor is not returned to the custody of his or her parent or guardian the court shall determine whether there is a substantial probability that the minor will be returned to the physical custody of his or her parent or guardian within six months. If the court so determines it

shall set another review hearing for not more than six months, which shall be a permanency planning hearing.

(d) If the court determines that the minor cannot be returned to the physical custody of his or her parent or guardian and that there is not a substantial probability that the minor will be returned within six months, the court shall develop a permanent plan for the minor. In order to enable the minor to obtain a permanent home the court shall make the following determinations and orders:

(1) If the court finds that it is likely that the minor can or will be adopted, the court shall authorize the appropriate county or state agency to proceed to free the minor from the custody and control of his or her parents or guardians pursuant to Section 232 of the Civil Code unless the court finds that any of the following conditions exist:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing this relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The minor's foster parents, including relative caretakers, are unable to adopt the minor because of exceptional circumstances which do not include an unwillingness to accept legal responsibility for the minor, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her foster parents would be seriously detrimental to the emotional well-being of the minor.

(2) If the court finds that it is not likely that the minor can or will be adopted or that one of the conditions in subparagraph (A), (B), or (C) of paragraph (1) applies, the court shall order the appropriate county department to initiate or facilitate the placement of the minor in a home environment that can be reasonably expected to be stable and permanent. This may be accomplished by initiating legal guardianship proceedings or long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is in a foster home and the foster parents, including relative caretakers, are willing and capable of providing a stable and permanent environment, the minor shall not be removed from the home if the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the foster parents. The court shall also make orders for visitation with the parents or guardians unless the court finds by a preponderance of evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(3) (A) If the court finds that it is not likely that the minor can or will be adopted, that there is no suitable adult available to become the legal guardian of the minor, and that there are no suitable foster parents except certified homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county

welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

(B) The licensed foster family agency shall only use a suitable licensed or other family home which has been certified by the agency as meeting licensing standards. When the care, custody, and control has been transferred to a foster family agency, it shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for support of the minor shall not in and of itself create liability on the part of the foster family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(C) Subsequent reviews for these minors shall be conducted every six months by the court. The licensed foster family agency shall be required to submit reports for each minor in its care, custody, and control to the court concerning the continuing appropriateness and extent of compliance with the minor's permanent plan, the extent of compliance with the case plan, and the type and adequacy of services provided to the minor.

(e) The proceeding for the appointment of a guardian for a minor who is a dependent child of the juvenile court shall be in the juvenile court. The court shall receive into evidence a report and recommendation concerning the proposed guardianship. The report shall include, but not be limited to, a discussion of all of the following:

(1) A social history of the proposed guardian, including screening for criminal records and prior referrals for child abuse or neglect.

(2) A social history of the minor, including an assessment of any identified developmental, emotional, psychological, or educational needs, and the capability of the proposed guardian to meet those needs.

(3) The relationship of the minor to the proposed guardian, the duration and character of the relationship, the motivation for seeking guardianship rather than adoption, the proposed guardian's long-term commitment to provide a stable and permanent home for the minor, and a statement from the minor concerning the proposed guardianship.

(4) The plan, if any, for the natural parents for continued involvement with the minor.

(5) The proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship.

The report shall be read and considered by the court prior to ruling on the petition for guardianship, and this shall be reflected in the minutes of the court. The person preparing the report may be called and examined by any party to the proceeding.

(f) Physical custody of a minor by his or her parents or guardians for insubstantial periods during the 12-month period prior to a permanency planning hearing shall not serve to interrupt the running of those periods.

(g) Notwithstanding any other provision of law, the application of any person who, as a foster parent, including relative caretakers, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the foster parent and removal from the foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

(h) Subsequent permanency planning hearings need not be held if (1) the child has been freed for adoption and placed in the adoptive home identified in the previous permanency planning hearing and is awaiting finalization of the adoption or (2) the child is the ward of a guardian.

(i) This section applies to minors adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 prior to January 1, 1989.

(j) An order by the court that authorizes the filing of a petition to terminate parental rights pursuant to Section 232 or that authorizes the initiation of guardianship proceedings is not an appealable order but may be the subject of review by extraordinary writ.

SEC. 7. Section 366.26 of the Welfare and Institutions Code is amended to read:

366.26. (a) This section applies to minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360 on or after January 1, 1989. The procedures specified herein are the exclusive procedures for conducting these hearings; Section 4600 of the Civil Code is not applicable to these proceedings. For minors who are adjudged dependent children of the juvenile court pursuant to subdivision (c) of Section 360, this section and Sections 224, 224m, and 7017 of the Civil Code specify the exclusive procedures, after January 1, 1990, for permanently terminating parental rights with regard to, or establishing legal guardianship of, the minor while the minor is a dependent child of the juvenile court.

(b) At the hearing, which shall be held in juvenile court for all minors who are dependents of the juvenile court, the court shall review the report as specified in Section 361.5, 366.21, or 366.22, shall indicate that the court has read and considered it, shall receive other evidence that the parties present, and then shall do one of the following:

(1) Permanently sever the parent or parents' rights and order

that the child be placed for adoption.

(2) Without permanently terminating parental rights, identify adoption as the permanent placement goal and order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days.

(3) Without permanently terminating parental rights, appoint a legal guardian for the minor and issue letters of guardianship.

(4) Order that the minor be placed in long-term foster care, subject to the regular review of the juvenile court.

In choosing among the above alternatives the court shall proceed pursuant to subdivision (c).

(c) At the hearing the court shall proceed pursuant to one of the following procedures:

(1) It shall terminate parental rights if it determines by clear and convincing evidence that it is likely that the minor will be adopted. The findings pursuant to subdivision (b) of Section 361.5 that reunification services shall not be offered, or the findings pursuant to subdivision (e) of Section 366.21 that the whereabouts of a parent have been unknown for six months or that the parent has failed to visit or contact the child for six months or that the parent has been convicted of a felony indicating parental unfitness, or pursuant to paragraph (2) of subdivision (g) of Section 366.21 or subdivision (a) of Section 366.22 that a minor cannot or should not be returned to his or her parent or guardian, are a sufficient basis for termination of parental rights unless the court finds that termination would be detrimental to the minor due to one of the following circumstances:

(A) The parents or guardians have maintained regular visitation and contact with the minor and the minor would benefit from continuing the relationship.

(B) A minor 10 years of age or older objects to termination of parental rights.

(C) The child is placed in a residential treatment facility, adoption is unlikely or undesirable, and continuation of parental rights will not prevent finding the child a permanent family placement if the parents cannot resume custody when residential care is no longer needed.

(D) The minor is living with a relative or foster parent who is unable or unwilling to adopt the minor because of exceptional circumstances, which do not include an unwillingness to accept legal responsibility for the minor, but who is willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his or her relative or foster parent would be detrimental to the emotional well-being of the minor.

(2) If the court finds that termination of parental rights would not be detrimental to the minor pursuant to paragraph (1) and that the minor has a probability for adoption but is difficult to place for adoption and there is no identified or available prospective adoptive parent, the court may identify adoption as the permanent placement

goal and without terminating parental rights, order that efforts be made to locate an appropriate adoptive family for the minor for a period not to exceed 60 days. During this 60-day period, the public agency responsible for seeking adoptive parents, for each child shall, to the extent possible, contact other private and public adoption agencies regarding the availability of the child for adoption. At the expiration of this period, another hearing shall be held and the court shall proceed pursuant to paragraph (1), (3), or (4) of subdivision (b). For purposes of this section, a minor may only be found to be difficult to place for adoption if there is no identified or available prospective adoptive parent for the minor because of the minor's membership in a sibling group, or the presence of a diagnosed medical, physical, or mental handicap, or the minor is the age of seven years or more.

(3) If the court finds that adoption of the minor or termination of parental rights is not in the interests of the minor, or that one of the conditions in subparagraph (A), (B), (C), or (D) of paragraph (1) applies, the court shall either order that the present caretakers or other appropriate persons shall become legal guardians of the minor or order that the minor remain in long-term foster care. Legal guardianship shall be considered before long-term foster care, if it is in the best interests of the child and if a suitable guardian can be found. When the minor is living with a relative or a foster parent who is willing and capable of providing a stable and permanent environment, but not willing to become a legal guardian, the minor shall not be removed from the home if the court finds the removal would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to the relative caretaker or foster parents. The court shall also make an order for visitation with the parents or guardians unless the court finds by a preponderance of the evidence that the visitation would be detrimental to the physical or emotional well-being of the minor.

(4) If the court finds that the child should not be placed for adoption and that legal guardianship shall not be established and that there are no suitable foster parents except exclusive-use homes available to provide the minor with a stable and permanent environment, the court may order the care, custody, and control of the minor transferred from the county welfare department or probation department to a licensed foster family agency. The court shall consider the written recommendation of the county welfare director or chief probation officer regarding the suitability of such a transfer. The transfer shall be subject to further court orders.

The licensed foster family agency shall place the minor in a suitable licensed or exclusive-use home which has been certified by the agency as meeting licensing standards. The licensed foster family agency shall be responsible for supporting the minor and for providing appropriate services to the minor, including those services ordered by the court. Responsibility for the support of the minor shall not, in and of itself, create liability on the part of the foster

family agency to third persons injured by the minor. Those minors whose care, custody, and control are transferred to a foster family agency shall not be eligible for foster care maintenance payments or child welfare services, except for emergency response services pursuant to Section 16504.

(d) The proceeding for the appointment of a guardian for a minor who is a dependent of the juvenile court shall be in the juvenile court. If the court finds pursuant to this section that legal guardianship is the appropriate permanency plan, it shall appoint the legal guardian and issue letters of guardianship. The assessment prepared pursuant to subdivision (b) of Section 366.22 shall be read and considered by the court prior to the appointment, and this shall be reflected in the minutes of the court. The person preparing the assessment may be called and examined by any party to the proceeding.

(e) At the beginning of any proceeding pursuant to this section, if the minor or the parents are not being represented by previously retained or appointed counsel, the court shall proceed as follows:

(1) The court shall consider whether the interests of the minor require the appointment of counsel. If the court finds that the interests of the minor do require such protection, the court shall appoint counsel to represent the minor. If the court finds that the interests of the minor require the representation of counsel, counsel shall be appointed whether or not the minor is able to afford counsel. The minor shall not be present in court unless the minor so requests or the court so orders.

(2) If a parent appears without counsel and is unable to afford counsel, the court shall appoint counsel for the parent, unless such representation is knowingly and intelligently waived. The same counsel shall not be appointed to represent both the minor and his or her parent. The public defender or private counsel may be appointed as counsel for the parent.

(3) Private counsel appointed under this section shall receive a reasonable sum for compensation and expenses, the amount of which shall be determined by the court. The amount shall be paid by the real parties in interest, other than the minor, in such proportions as the court deems just. However, if the court finds that any of the real parties in interest are unable to afford counsel, the amount shall be paid out of the general fund of the county.

(f) The court may continue the proceeding for not to exceed 30 days as necessary to appoint counsel, and to enable counsel to become acquainted with the case.

(g) At all termination proceedings, the court shall consider the wishes of the child and shall act in the best interests of the child.

The testimony of the minor may be taken in chambers and outside the presence of the minor's parent or parents if the minor's parent or parents are represented by counsel, the counsel is present, and any of the following circumstances exist:

(1) The court determines that testimony in chambers is necessary

to ensure truthful testimony.

(2) The minor is likely to be intimidated by a formal courtroom setting.

(3) The minor is afraid to testify in front of his or her parent or parents.

After testimony in chambers, the parent or parents of the minor may elect to have the court reporter read back the testimony or have the testimony summarized by counsel for the parent or parents.

The testimony of a minor also may be taken in chambers and outside the presence of the guardian or guardians of a minor under the circumstances specified in this subdivision.

(h) Any order of the court permanently terminating parental rights under this section shall be conclusive and binding upon the minor person, upon the parent or parents and upon all other persons who have been served with citation by publication or otherwise as provided in this chapter. After making such an order, the court shall have no power to set aside, change, or modify it, but nothing in this section shall be construed to limit the right to appeal the order.

(i) If the court, by order or judgment declared the minor free from the custody and control of both parents, or one parent if the other no longer has custody and control, the court shall at the same time order the minor referred to a licensed county adoption agency for adoptive placement by the agency. However, no petition for adoption may be heard until the appellate rights of the natural parents have been exhausted. The licensed county adoption agency shall be responsible for the care and supervision of the minor and shall be entitled to the exclusive care and control of the minor at all times until a petition for adoption is granted.

(j) Notwithstanding any other provision of law, the application of any person who, as a relative caretaker or foster parent, has cared for a dependent child for whom the court has approved a permanent plan for adoption, or who has been freed for adoption, shall be given preference with respect to that child over all other applications for adoptive placement if the agency making the placement determines that the child has substantial emotional ties to the relative caretaker or foster parent and removal from the relative caretaker or foster parent would be seriously detrimental to the child's well-being.

As used in this subdivision, "preference" means that the application shall be processed and, if satisfactory, the family study shall be completed before the processing of the application of any other person for the adoptive placement of the child.

SEC. 8. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates

Claims Fund.

CHAPTER 1076

An act to amend Section 62.1 of, and to add Section 2188.10 to, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

(b) Any transfer or transfers on or after January 1, 1985, and before January 1, 1987, of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the individual tenants of these spaces form, within one year after the first purchase of a rental space by an individual tenant, a nonprofit corporation, stock cooperative, or other entity, as described in Section 50561 of the Health and Safety Code, to operate and maintain the park. If, on or after January 1, 1985, and before January 1, 1987, an individual tenant or tenants notify the county assessor of the intention to comply with the conditions set forth in the preceding sentence, any mobilehome park rental space which is purchased by an individual tenant in that mobilehome park during that period shall not be reappraised by the assessor. However, if all of the conditions set forth in the first sentence of this subdivision are not satisfied, the county assessor shall thereafter levy escape assessments for the spaces so transferred. This subdivision shall apply only to those rental mobilehome parks which have been in operation for five years or more.

(c) (1) If the transfer of a mobilehome park has been excluded from a change in ownership pursuant to subdivision (a) and the park

has not been converted to condominium, stock cooperative ownership, or limited equity cooperative ownership, any transfer on or after January 1, 1989, of shares of the voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a) shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by the provisions of Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) Subdivision (a) shall remain operative only until January 1, 1994. Subdivision (b) shall remain operative only until January 1, 1987.

(e) It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome parks to tenant ownership, including, but not limited to, those parks converted to tenant ownership as a nonprofit corporation made on or after January 1, 1985, and before the termination date of subdivision (a).

SEC. 2. Section 2188.10 is added to the Revenue and Taxation Code, to read:

2188.10. (a) Whenever the assessor receives a written request for separate assessment of a pro rata portion of the real property of a mobilehome park which changed ownership pursuant to subdivision (c) of Section 62.1 as the result of the transfer of a share or shares of voting stock or other ownership or membership interest or interests, the assessor shall, on the first lien date which occurs more than 60 days following the request, and on each lien date thereafter, separately assess the portion or portions of real property described in subdivision (b) if the conditions specified in subdivision (c) have been met. Whenever a portion of the real property of a mobilehome park becomes subject to separate assessment, it shall continue to be subject to separate assessment in subsequent fiscal years and once a request for separate assessment is made, it is binding on all future owners of the voting stock or other ownership or membership interests in the entity which owns the park.

(b) The interest that is to be separately assessed is the value of the pro rata portion of the real property of the mobilehome park which

changed ownership pursuant to subdivision (c) of Section 62.1.

(c) A separate assessment may not be made by the assessor under this section unless the following conditions are met:

(1) The governing board of the mobilehome park makes the request for separate assessment and certifies that the request has been approved in the manner provided in the organizational documents of the entity owning the mobilehome park.

(2) Information is filed with the assessor listing all of the following:

(A) The total number of outstanding shares of voting stock of, or other ownership or membership interests in, the entity which owns the mobilehome park.

(B) The number of shares of voting stock, or other ownership or membership interests, which have been transferred and resulted in the change in ownership of portions of the real property of the park pursuant to subdivision (c) of Section 62.1, together with the names and addresses of the owners of the transferred voting stock or other ownership or membership interests.

(C) Any other information as the assessor may require.

The entity owning the mobilehome park shall file an annual statement for each succeeding assessment year, on or before April 1, with the assessor, setting forth any changes to the required information known to the entity. The information provided pursuant to this section is not a public document and shall not be open to public inspection, except as provided in Section 408.

(d) Nothing in this section shall be construed to require applicants for separate assessments to meet the requirements of the Subdivision Map Act, nor shall the approval of any governmental agency be required for separate assessment except for the assessor's approval.

(e) The assessor shall cumulate all the separate assessments in a mobilehome park and enter the total assessment on the secured roll in the name of the entity which owns the park. The assessor shall notify each owner of a portion of the real property of the park subject to separate assessment under this section of the amount of an increased assessment pursuant to Section 619.

(f) The tax on the total assessment of the mobilehome park shall be a lien on the real property of the park and shall be subject to all provisions of law applicable to taxes on the secured roll.

(g) The tax collector shall send a single tax bill, with an itemized breakdown detailing the taxes and the allocated portion of any fee imposed pursuant to subdivision (i) applicable to each separate assessment, to the entity owning the mobilehome park.

(h) The assessor shall provide to owners of voting stock or other ownership or membership interest in a mobilehome park entity subject to subdivision (c) of Section 62.1, and to the governing board of the park, at that time and in that manner as the assessor deems appropriate, adequate notice of the provisions of this section and other pertinent information relative to the implementation thereof.

(i) The county may charge a fee for the initial cost of separately assessing and implementing subdivision (g), not to exceed the actual

cost of the separate assessment and billing. This fee shall be allocated to each owner of a share of voting stock or other ownership or membership interest for which a separate assessment has been made and the fee shall be deposited in the county's general fund.

(j) The governing board of the entity which owns the mobilehome park shall collect the allocated portion of any fee charged pursuant to subdivision (i) and any itemized taxes applicable to a separate assessment from the owner of the voting stock or other ownership or membership interest whose acquisition of the interest resulted in the separate assessment. The fees and taxes resulting from separate assessment shall be deducted from the proportional cost of the fees and taxes collected from the remaining owners or members.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1077

An act to amend Sections 3105, 3201, 3202, 3203, 3208, 3215, 3232, 3236.5, 3402, 3403, 3703.1, 3716, 3717, 3724.1, 3724.35, 3724.5, 3745, 3747, 3751, 3754, and 3757.1 of, and to repeal Section 3217 of, the Public Resources Code, relating to oil, gas, and geothermal resources.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 3105 of the Public Resources Code is amended to read:

3105. An office under the supervision of a district deputy may be maintained in each district. The office shall be conveniently accessible to the oil and gas operators in the district.

SEC. 2. Section 3201 of the Public Resources Code is amended to read:

3201. The owner or operator of any well shall notify the supervisor or the district deputy, in writing, in such form as the supervisor or the district deputy may direct, of the sale, assignment, transfer, conveyance, or exchange by the owner or operator of the well within 30 days after the sale, assignment, transfer, conveyance, or exchange. The notice shall contain the following:

(a) The name and address of the person to whom the well was sold, assigned, transferred, conveyed, or exchanged.

(b) The name and location of the well.

(c) The date of the sale, assignment, transfer, conveyance, or

exchange.

(d) The date when possession was relinquished by the owner or operator.

(e) A description of the land upon which the well is situated.

SEC. 3. Section 3202 of the Public Resources Code is amended to read:

3202. Every person who acquires the ownership or operation of any well, whether by purchase, transfer, assignment, conveyance, exchange, or otherwise, shall, within 30 days after acquiring the well and the land, owned or leased, upon which it is located, notify the supervisor or the district deputy, in writing, of the person's ownership or operation. The acquisition of a well is not final for the purposes of this division until the new operator provides the following:

(a) The name and address of the person from whom the well was acquired.

(b) The name and location of the well.

(c) The date of acquisition.

(d) The date when possession was acquired.

(e) A description of the land upon which the well is situated.

(f) A bond or deposit for any well that has not produced oil or gas or been injected during the five years prior to the date of acquisition and was covered by a bond or deposit by the prior owner. The bond or deposit shall be in an amount as provided in Section 3204 or Section 3205. The conditions of the bond or deposit shall be the same as the conditions stated in Section 3204.

SEC. 4. Section 3203 of the Public Resources Code is amended to read:

3203. The owner or operator of any well shall, before commencing the work of drilling the well, file with the supervisor or the district deputy a written notice of intention to commence drilling. Drilling shall not commence until approval is given by the supervisor or the district deputy; if the supervisor or the district deputy fails to give the owner or operator written response to the notice within 10 working days from the date of receipt, that failure shall be considered as an approval of the notice and the notice shall, for the purposes and intents of this chapter, be deemed a written report of the supervisor. If operations have not commenced within one year of receipt of the notice, the notice shall be deemed canceled. The notice shall contain such pertinent data as the supervisor may require on printed forms supplied by the division or on other forms acceptable to the supervisor. The supervisor may require other pertinent information to supplement the notice.

After the completion of any well, this section shall also apply, as far as may be, to the deepening or redrilling of the well, any operation involving the plugging of the well, or any operations permanently altering in any manner the casing of the well. The number or designation of any well, and the number or designation specified for any well in a notice filed as required by this section, shall not be

changed without first obtaining a written consent of the supervisor.

SEC. 5. Section 3208 of the Public Resources Code is amended to read:

3208. For the purposes of Section 3207, a well is properly completed when it has been shown, to the satisfaction of the supervisor, that the manner of producing oil or gas or injecting fluids into the well is satisfactory and that the well has maintained production of oil or gas or injection for a continuous six-month period. A well is properly abandoned when it has been shown, to the satisfaction of the supervisor, that all proper steps have been taken to isolate all oil-bearing or gas-bearing strata encountered in the well, and to protect underground or surface water suitable for irrigation or farm or domestic purposes from the infiltration or addition of any detrimental substance and to prevent subsequent damage to life, health, property, and other resources.

SEC. 6. Section 3215 of the Public Resources Code is amended to read:

3215. Within 60 days after the date of cessation of drilling, rework, or abandonment operations, or the date of suspension of operations, true copies of the log, core record, and history of work performed, and, if made, true and reproducible copies of all electrical, physical, or chemical logs, tests, or surveys in such form as the supervisor may approve shall be filed with the district deputy. Upon a showing of hardship, the supervisor may extend the time within which to comply with the provisions of this section for a period not to exceed 60 additional days.

SEC. 7. Section 3217 of the Public Resources Code is repealed.

SEC. 8. Section 3232 of the Public Resources Code is amended to read:

3232. The supervisor or the district deputy shall, within 10 days after the receipt of a written report of abandonment, furnish the owner or operator with a written final approval of abandonment, or a written disapproval of abandonment, setting forth the conditions upon which the disapproval is based.

Failure to abandon in accordance with the approved method of abandonment, or failure to notify the supervisor or the district deputy of any test required by the final approval of abandonment to be witnessed by the supervisor, the district deputy, or his or her inspector, or failure to furnish the supervisor or the district deputy, at his or her request, with any information regarding the condition of the well, shall constitute sufficient grounds for disapproval of the abandonment.

SEC. 8.5. Section 3236.5 of the Public Resources Code is amended to read:

3236.5. (a) Any person who violates this chapter or any regulation implementing this chapter is subject to a civil penalty not to exceed five thousand dollars ($5,000) for each violation. Acts of God, and acts of vandalism beyond the reasonable control of the operator, shall not be considered a violation. The civil penalty shall

be imposed by an order of the supervisor upon a determination that a violation has been committed by the person charged, following notice to the person and an opportunity to be heard. The notice shall be served by personal service or certified mail, and shall inform the alleged violator of the date, time, and place of the hearing, the activity which is alleged to be a violation, the statute violated, and the hearing and judicial review procedures. The notice shall be provided at least 30 days before the hearing. The hearing shall be held before the supervisor in Sacramento or in the district in which the violation occurred. The hearing need not be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The imposition of a civil penalty under this section shall be in addition to any other penalty provided by law for the violation. When establishing the amount of civil liability pursuant to this section, the supervisor shall consider, in addition to other relevant circumstances, (1) the extent of harm caused by the violation, (2) the persistence of the violation, and (3) the number of prior violations by the same violator.

(b) Notwithstanding any other provision of this chapter, an order of the supervisor imposing a civil penalty shall not be reviewable pursuant to Article 6 (commencing with Section 3350). A person upon whom a civil penalty is imposed may obtain judicial review of a final order of the supervisor imposing the penalty by seeking a writ of mandate pursuant to Section 1094.5 of the Code of Civil Procedure. When the order of the supervisor has become final, and the penalty has not been paid by the violator, the supervisor may apply to the appropriate superior court for an order directing payment of the civil penalty.

(c) Any amount collected under this section shall be deposited in the General Fund.

SEC. 9. Section 3402 of the Public Resources Code is amended to read:

3402. There shall annually be imposed upon the person operating each oil well in this state, or owning royalty or other interests in respect to the production from the well, a charge which shall be payable to the Treasurer and which shall be computed at a uniform rate per barrel of oil produced from the well for the preceding calendar year. The charge shall be apportioned among all of those persons in fractional amounts proportionate to their respective fractional interests in respect to the production of the well, but the whole of the charge shall be payable by the operator, who shall withhold their respective proportionate shares of the charge from the amounts otherwise payable or deliverable to the owners of royalty or other interests. In the case of a penalty for late payment as provided in Section 3420, no apportionment shall be made.

SEC. 10. Section 3403 of the Public Resources Code is amended to read:

3403. There shall annually be imposed upon the person operating each gas well in this state, or owning royalty or other interests with

respect to the production from the well, a charge, which shall be payable to the Treasurer, based upon the amount of gas produced in the preceding calendar year, other than gas which is used for recycling or otherwise in oil-producing operations, and which shall be computed at a uniform rate per ten thousand cubic feet. The charge shall be apportioned among all of those persons in fractional amounts proportionate to their respective fractional interests with respect to the production of the well, but the whole of the charge shall be payable by the operator, who shall withhold the respective proportionate shares of the charge from the amounts otherwise payable or deliverable to the owners of royalty or other interests. In the case of a penalty for a late payment as provided in Section 3420, no apportionment shall be made.

SEC. 11. Section 3703.1 of the Public Resources Code is amended to read:

3703.1. "Low-temperature geothermal resources" are fluids that have value by virtue of the heat contained therein and have a temperature that is not more than the boiling point of water at the altitude of occurrence.

SEC. 12. Section 3716 of the Public Resources Code is amended to read:

3716. The district deputy in each district shall collect all information regarding the wells in the district necessary for the proper supervision of the wells. The district deputy shall prepare maps and other accessories necessary to determine the underground conditions in a geothermal area and the location and extent of strata bearing water suitable for irrigation or domestic purposes or surface water suitable for those purposes. This work shall be done with the view to advising the operators as to the best means of protecting the geothermal resource deposits and the water-bearing strata and surface water, and with a view to aiding the supervisor in ordering tests or repair work at wells. All the data shall be kept on file in the office of the district deputy of the respective district, and copies thereof shall be available, upon request, to the Director of Water Resources, the State Geologist, and the appropriate California regional water quality control board located in the area involved, subject to Section 3752.

SEC. 13. Section 3717 of the Public Resources Code is amended to read:

3717. Upon request, the supervisor shall notify the Department of Fish and Game and the California regional water quality control board in the area affected of the location and abandonment of geothermal wells.

SEC. 14. Section 3724.1 of the Public Resources Code is amended to read:

3724.1. An owner or operator may submit to the supervisor for approval a written program to drill a shallow well or wells for temperature-gradient monitoring purposes. In order to qualify under this section, a program shall contain not more than 25 wells

and the maximum total depth of each of these wells shall not exceed 250 feet. Each program submitted for approval shall include:

(a) Well numbers.

(b) Well locations and elevations.

(c) Geologic interpretation of the area under investigation, including any known or inferred temperature data.

(d) Such other data as may be required by the supervisor.

The fee required to be filed for the drilling of these shallow wells shall be twenty-five dollars ($25) per well or two hundred dollars ($200) per program, whichever is the lesser.

The fee shall be paid as provided in Section 3724.6.

SEC. 15. Section 3724.35 of the Public Resources Code is amended to read:

3724.35. The supervisor may adopt regulations governing intermediate and deep wells drilled for temperature-gradient monitoring purposes. The regulations may specify the content of any written program for the wells drilled for that purpose to be submitted to the supervisor for approval, the amount of the fee, if any, to be filed for each intermediate or deep well drilled or for each program, and any other matter deemed necessary by the supervisor.

SEC. 16. Section 3724.5 of the Public Resources Code is amended to read:

3724.5. To provide funds for the supervision of geothermal resource wells, the supervisor shall establish an annual well fee, and penalties for late payment, to be applied on an equal basis to all wells as provided under this section.

The annual well fee shall be imposed upon each producing, service, and idle well that existed at any time during the calendar year preceding the statewide fee-assessment date. However, the annual well fee shall not be imposed on any temperature-gradient or observation well, irrespective of its depth, and any low-temperature well, including any well drilled for the purpose of filling a hot water spa or pool intended for human immersion, or any well for which the supervisor has approved suspension.

The annual well fee shall be established so that the sum of the annual well fees plus the estimated sum of those well permit fees provided in Sections 3724 and 3724.1 and pursuant to any regulation adopted under Section 3724.35 are equal to the appropriation for the supervision of geothermal resource wells as provided in the Governor's Budget. The establishment of the annual well fee shall take into account any budget adjustments for actual expenditures in the current and prior fiscal years. Any budget change proposal for support of the provisions of this chapter shall be submitted by the supervisor to geothermal operators for review and comment. A system for determining the fee and penalties and administering the fee and penalty collection shall be adopted by the supervisor by regulation after public hearing.

SEC. 17. Section 3745 of the Public Resources Code is amended to read:

3745. The owner of any well producing geothermal resources or injecting fluids associated with geothermal operations shall file with the supervisor, on or before the 30th day of each month, for the last preceding calendar month, a statement of production and injection in the form as the supervisor may designate.

SEC. 18. Section 3747 of the Public Resources Code is amended to read:

3747. Before any work is commenced to abandon any well, the owner or operator shall give written notice to the supervisor or the district deputy of the owner's or operator's intention to abandon the well and the date upon which the work of abandonment will begin.

The notice shall be given at least 10 days before the proposed abandonment, and it shall show the condition of the well and the proposed method of abandonment.

The owner or operator shall furnish the supervisor or the district deputy any additional information that the supervisor or the district deputy may request regarding the condition of the well and the proposed method of abandonment, at any time between the filing of the notice of intention to abandon the well and the completion of abandonment.

SEC. 19. Section 3751 of the Public Resources Code is amended to read:

3751. No person, whether as principal, agent, servant, employee, or otherwise, shall remove the casing or any portion thereof, from any well without first giving written notice to the supervisor or the district deputy of the person's intention to remove the casing from the well. The notice shall be given at least 10 days before the proposed removal.

The supervisor or the district deputy shall, before the proposed date of removal, furnish the person with a written report of approval of the person's proposal, or a written report stating what work shall be done before the approval will be given.

If the supervisor or the district deputy fails to give the person a written report within the specified time, that failure shall be considered an approval of the proposal to remove the casing, and the proposal shall, for the purposes and intents of this chapter, be deemed a written report of the supervisor or the district deputy.

Within five days after the completion of the removal, the person shall make, in the form as the supervisor or district deputy may direct, a written report, in duplicate, of all work done in connection with the removal.

SEC. 20. Section 3754 of the Public Resources Code is amended to read:

3754. Any owner or operator, or employee thereof, who refuses to permit the supervisor or the district deputy, or his or her inspector, to inspect a well or appurtenant facilities, or who willfully hinders or delays the enforcement of this chapter, and every person, whether as principal, agent, servant, employee, or otherwise, who violates, fails, neglects, or refuses to comply with this chapter, or who

fails or neglects or refuses to furnish any report or record which may be required pursuant to this chapter, or who willfully renders a false or fraudulent report, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000), or by imprisonment for not exceeding six months, or by both the fine and imprisonment, for each offense.

SEC. 21. Section 3757.1 of the Public Resources Code is amended to read:

3757.1. Notwithstanding any other provisions of this chapter, where a parcel of land contains one acre or more and all or substantially all of the surface is unavailable for the location of a geothermal well and directional drilling is found by the supervisor to be necessary, the supervisor may approve proposals to drill wells at whatever locations the supervisor determines to be advisable for the purpose of properly developing the geothermal resources except, that no well shall be drilled or permitted to produce which is located within 25 feet of the outer boundary of the parcel of land on which the well is situated or within 25 feet of a public road, street, or highway dedicated prior to the commencement of drilling. The supervisor may require, at the time the supervisor gives approval of the notice of intention to drill, redrill, or deepen such well, that a subsurface directional survey be made, and that the survey be filed with the supervisor within 15 days of cessation of drilling operations.

CHAPTER 1078

An act to add Sections 4517, 4518, and 4519 to the Business and Professions Code, relating to psychiatric technicians, and making an appropriation therefor.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 4517 is added to the Business and Professions Code, to read:

4517. The board may, in its discretion, provide for a continuing education program in connection with the professional functions and courses described in this chapter. The number of course hours that the board may require in a continuing education program shall not exceed the number of course hours prescribed for licensed vocational nurses pursuant to Section 2892.5.

SEC. 2. Section 4518 is added to the Business and Professions Code, to read:

4518. In the event the board adopts a continuing education program, the board may collect a biennial fee, not to exceed one hundred fifty dollars ($150), from any provider of a course in

continuing education who requests approval by the board of the course for purposes of continuing education requirements adopted by the board. The fee, however, shall in no event exceed the cost required for the board to administer the approval of continuing education courses by continuing education providers.

SEC. 3. Section 4519 is added to the Business and Professions Code, to read:

4519. In the case of a person who is employed by the state as a psychiatric technician, no state funds shall be expended in releasing the person from duty to attend continuing education courses, other than funds for in-service training and related state-provided programs.

CHAPTER 1079

An act to amend Section 14171 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 14171 of the Welfare and Institutions Code is amended to read:

14171. (a) The director shall establish administrative appeal processes to review grievances or complaints arising from the findings of an audit or examination made pursuant to Sections 10722 and 14170.

(b) Different administrative appeal processes may be established by the director for grievances or complaints arising from the determinations of a tentative or final settlement based on audit or examination findings made by or on behalf of the department pursuant to Sections 10722 and 14170, except that consistent with existing practice, no administrative appeal shall be available for tentative settlement of cost reports.

(c) The administrative appeal process established by the director for final settlements, including, in the case of hospitals, the application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall include the procedural requirements of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The impartial hearing shall be conducted by an administrative law judge appointed by the director. The director may subcontract with the Office of Administrative Hearings to conduct hearings on cases involving complicated issues of fact or law, or to reduce the backlog of cases.

(d) The administrative appeal process established by the director for tentative settlements, including, in the case of hospitals, the

application of Sections 51536, 51537, and 51539 of Title 22 of the California Code of Regulations shall be an informal process which, however, guarantees a provider the right to present any grievance or complaint to the department in writing. Any subsequent hearings shall be conducted in an informal manner and shall be held at the discretion of the department.

(e) The time limitations in subdivisions (f) and (g) for the impartial hearing and the final decisions are mandatory. If the department fails to conduct the hearing or to adopt a final decision thereon within the time limitations provided in subdivisions (f) and (g), the amount of any overpayment which is ultimately determined by the department to be due shall be reduced by 10 percent for each 30-day period, or portion thereof, that the hearing or the decision, or both, are delayed beyond the time limitations provided in subdivisions (f) and (g). However, the time period shall be extended by either of the following:

(1) Delay caused by a provider.

(2) Extensions of time granted a provider at its sole request or at the joint request of the provider and the department.

(f) (1) Notwithstanding subdivision (c), the administrative appeal process established by the director shall commence with an informal conference with the provider, a representative of the department, and the administrative law judge. The informal conference shall be conducted no later than 90 days after the filing of a timely and specific statement of disputed issues by the provider. The administrative law judge, when appropriate, may assign the administrative appeal to an informal level of review where efforts could be made to resolve facts and issues in dispute in a fair and equitable manner, subject to the requirements of state and federal law. The review conducted at this informal level shall be completed no later than 180 days after the filing of a timely and specific statement of disputed issues by the provider.

(2) Nothing in this subdivision shall prohibit the provider from presenting any unresolved grievances or complaints at an impartial hearing pursuant to subdivision (c). The impartial hearing shall be conducted no later than 300 days after the filing of a timely and specific statement of disputed issues by the provider. For noninstitutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 60 days after the closure of the record of the impartial hearing. For institutional providers, a proposed decision shall be prepared and transmitted to the director and the parties within 180 days after the closure of the record of the impartial hearing.

(3) Subject to subdivision (g), a final decision in a noninstitutional provider appeal shall be adopted within 180 days after the closure of the record of the impartial hearing, and a final decision in an institutional provider appeal shall be adopted within 300 days after the closure of the record of the impartial hearing.

(g) In the event the director intends to modify a proposed

decision, on or before the 180th day following the closure of the record of the hearing for noninstitutional providers or the 300th day following the closure of the record of the hearing for institutional providers, the director shall provide written notice of his or her intention to the parties and shall afford the parties an opportunity to present oral and written argument. Following this notice, on or before the 240th day following the closure of the record of the hearing for noninstitutional providers or the 420th day following closure of the record of the hearing for institutional providers, or within that additional time period as is granted pursuant to the sole request of a provider or at the joint request of the provider and the department, the director shall issue a modified decision .

(h) In the event recovery of a disallowed payment has been made by the department, a provider who prevails in an appeal of a disallowed payment shall be entitled to interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund, commencing on the date the appeal is formally accepted by the department or the date payment is received by the department. whichever is later.

(i) Commencing 60 days after issuance of the first statement of account status or demand for repayment resulting from an audit or examination made pursuant to Sections 10722 and 14170, interest at the rate equal to the monthly average received on investments in the Surplus Money Investment Fund during the month the first statement of account status or demand for repayment was issued shall be assessed against any unrecovered overpayment due to the department.

(j) The final decision of the director shall be reviewable in accordance with Section 1094.5 of the Code of Civil Procedure within six months of the issuance of the director's final decision.

CHAPTER 1080

An act to amend Section 25600 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 25600 of the Business and Professions Code is amended to read:

25600. No licensee shall, directly or indirectly, give any premium, gift, or free goods in connection with the sale or distribution of any alcoholic beverage except as provided by rules which shall be adopted by the department to implement this section or except as authorized by this division.

No rule of the department may permit a licensee to give any premium, gift, or free goods of greater than inconsequential value in connection with the sale or distribution of beer. With respect to beer, premiums, gifts, or free goods, including advertising specialties which have no significant utilitarian value other than advertising, shall be deemed to have greater than inconsequential value if they cost more than twenty-five cents ($0.25) per unit, or cost more than fifteen dollars ($15) in the aggregate for all such items given by a single supplier to a single retail premises per calendar year.

With respect to distilled spirits and wines, a licensee may furnish, give, rent, loan, or sell advertising specialties to a retailer provided those items bear conspicuous advertising required of a sign and the total value of all retailer advertising specialties furnished by a supplier directly or indirectly, to a retailer shall not exceed fifty dollars ($50) per brand in any one calendar year per retail premises. The value of a retailer advertising specialty is the actual cost of that item to the supplier who initially purchased it. Transportation and installation costs are excluded. The furnishing or giving of any retailer advertising specialty shall not be conditioned upon the purchase of the suppliers' product. Retail advertising specialties given or furnished free of charge may not be sold by the retail licensee.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1081

An act to amend Sections 11877.5 and 11877.14 of, and to add Sections 11877.15 and 11877.16 to, the Health and Safety Code, relating to drug abuse.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 11877.5 of the Health and Safety Code is amended to read:

11877.5. (a) Each methadone program in this state, except methadone research programs approved by the Research Advisory Panel, shall be licensed by the department. Each methadone program, other than a program owned and operated by the state, county, city, or city and county, shall, upon application for licensure and for renewal of a license, pay an annual license fee to the

department. Annual license renewal date shall be on the yearly anniversary of the most recent license until July 1, 1987. July 1 shall be the annual license renewal date thereafter. The department shall set a fee for licensing which shall be at a level sufficient to cover all departmental costs associated with licensing incurred by the department, but shall not, except as specified in this section, increase at a rate greater than the Consumer Price Index. The department shall increase the fee by 5 percent, in addition to the increase by the Consumer Price Index, in the 1989–90 and 1990–91 fiscal years. The fees shall include the department's share of pro rata charges for the expenses of state government. The fee may be paid quarterly in arrears as determined by the department. Fees paid quarterly in arrears shall be due and payable on the last day of each quarter except for the fourth quarter which shall be due and payable no later than May 31. A failure of a program to pay renewal license fees by the due date shall give rise to a civil penalty of one hundred dollars ($100) a day for each day after the due date. As used in this chapter, "quarter" means July, August, September; October, November, December; January, February, March; April, May, and June. Second and subsequent inspection visits to methadone programs which are operating in noncompliance with the applicable laws and regulations shall be charged a rate of one-half the program's annual license fee or one thousand dollars ($1,000), whichever is less for each visit. Licensing shall be contingent upon determination by the department that the program is in compliance with applicable laws and regulations and upon payment of the licensing fee. A license shall not be transferable.

As used in this chapter, "license" means a basic permit to operate a methadone treatment program. The license shall be issued exclusively by the department and operated in accordance with a patient capacity that shall be specified, approved, and monitored solely by the department.

Existing methadone treatment programs which are licensed by the department on January 1, 1987, shall be extended until June 30, 1987. License fees shall be charged for this six-month extension period. Thereafter all licenses shall be issued annually from July 1 through June 30.

(b) Each methadone program, other than a program owned and operated by the state, county, city, or city and county, shall be charged an application fee which shall be at a level sufficient to cover all departmental costs incurred by the department in processing either an application for a new program license, or an application for an existing program which has moved to a new location.

(c) Any licensee that increases fees to the patient, in response to increases in licensure fees required by the department, shall first provide written disclosure to the patient of that amount of the patient fee increase that is attributable to the increase in the licensure fee. This provision shall not be construed to limit patient fee increases imposed by the licensee upon any other basis.

SEC. 2. Section 11877.14 of the Health and Safety Code is amended to read:

11877.14. (a) (1) The director may, in addition to any other remedy, issue an order that prohibits a methadone program from admitting new patients or from providing patients with take-home dosages of methadone when the director determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that a program has done any of the following:

(A) Failed to provide adequate security measures over its methadone supply as agreed in the program's approved protocol.

(B) Failed to maintain a methadone reconciliation system which accounts for all incoming and outgoing methadone.

(C) Diverted methadone.

(D) Repeatedly violated one or more departmental or federal regulations governing methadone treatment programs, which violations may subject, or may have subjected a patient to a health or life-endangering situation.

(E) Repeatedly violated one or more departmental or federal regulations governing the provisions of take-home medication.

(F) Operated above combined licensed capacity for maintenance and detoxification programs at a single location. This paragraph shall not become operative until department regulations on methadone treatment programs are revised to identify specific requirements in conjunction with this paragraph.

(2) (A) The order becomes effective when the department serves the program with a copy of the order. The order shall state the deficiencies forming the basis for the order and shall state the corrective action required for the department to vacate the order. The order, as it pertains to subparagraph (F) only, shall automatically be vacated when the department receives the program's written notification that licensed capacity has been achieved. If the order is issued pursuant to subparagraph (A), (B), (C), (D), or (E), the department shall vacate the order when the program submits a corrective action plan that reasonably addresses the deficiency or substantially conforms to the required action set out in the order.

(B) The department shall notify the program that the corrective action is accepted or rejected within 10 working days after receipt of the plan. If the department rejects the corrective action plan, it shall detail its reason in writing. The department order is vacated when the department accepts a corrective action plan or fails to reject a plan within 10 working days after receipt of the plan.

(3) In addition to any other remedies, a failure of the program to comply with the order of the department under this subdivision shall give rise to a civil penalty of five hundred dollars ($500) a day for each day that the order is violated.

(4) All civil penalties collected by the department under paragraph (3) shall be deposited in the Methadone Program

Licensing Trust Fund and be used to offset the department's costs associated with collecting the civil penalties, or associated with any civil, administrative, or criminal action against the program when appropriated for this purpose.

(b) (1) The director may, in addition to any other remedy, issue an order temporarily suspending a methadone program license prior to any administrative hearing for the reasons stated in subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a) when the department determines pursuant to the compliance inspection procedures set out in paragraph (2) of subdivision (a) of Section 11876, that the action is necessary to protect patients of the program from any substantial threat to their health or safety, or to protect the health or safety of the people of the State of California. Prior to issuing the order the director shall assure continuity of patient care by the program's guarantor or through the transfer of patients to other licensed programs. The director may issue any needed license or amend any other license in his or her effort to assure that patient care is not impacted adversely by the suspension order.

(2) The director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time shall serve the licensee with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 20 days, exclusive of weekends, after receipt of the notice. The temporary suspension shall remain in effect until such time as the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 20 days after the original hearing has been completed. Failure to cease operating after the department issues an order temporarily suspending the license shall constitute an additional ground for license revocation and shall constitute a violation of Section 11877.6.

(3) Failure of the licensee to cease operating after the director issues a temporary suspension order under paragraph (1) shall constitute an additional ground for license revocation.

(c) A program may, at any time after it is served with an order, petition the superior court to review the department's issuance of an order or rejection of a corrective action plan.

SEC. 3. Section 11877.15 is added to the Health and Safety Code, to read:

11877.15. In cases where a program is closing and the licensed entity which has agreed to assume temporary operation of the closing program is unable to do so, the department may assume temporary operation of the closing program or designate another licensed entity willing to do so. In cases where the licensed entity which has agreed to assume temporary operation is the subject of a pending licensing action or order issued pursuant to Section 11877.14, the department may issue an order prohibiting the entity from

assuming temporary operation and may assume temporary operation of the closing program or designate another licensed entity willing to do so. This section shall not be construed to require the department or any other licensed entity to assume any of the closing programs' financial obligations.

For purposes of this section, "temporary" means no more than 90 days.

SEC. 4. Section 11877.16 is added to the Health and Safety Code, to read:

11877.16. Any licensee may petition the director for waiver of licensure fees or late payment penalties for the current fiscal year based upon financial hardship. Prior to the granting of relief, the licensee shall demonstrate hardship by production of appropriate financial records. The director may, in his or her discretion, grant all or part of the relief sought, but shall consider the reasonableness of the relief in light of the other expenditures undertaken by licensee, giving particular scrutiny to the licensee's own profits, earnings or other compensation, and expenses such as interest, mortgage, or loan payments, as well as noncash expenses such as accruals and depreciation.

CHAPTER 1082

An act to amend Sections 1773.8 and 1777 of, and to add Section 1773.6 to, the Health and Safety Code, relating to life care agreements.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1773.6 is added to the Health and Safety Code, to read:

1773.6. (a) Before obtaining a permit to sell deposit subscriptions, each provider shall execute a declaration, on forms furnished by the department, acknowledging the requirement of executing and recording a Notice of Statutory Limitation on Transfer, hereinafter referred to as the notice relating to facility property, pursuant to this section.

(b) The notice shall be acknowledged so as to entitle it to be recorded, describe the property, declare the provider's intention to use all or part of the described property for the purposes of a life care facility pursuant to this chapter and shall be in substantially the following form:

NOTICE OF STATUTORY LIMITATION ON TRANSFER

Notice is hereby given that the property described below is licensed, or proposed to be licensed, for use as a life care facility and accordingly, the use and transfer of the property is subject to the conditions and limitations as to use and transfer set forth in Sections 1786 and 1787 of the California Health and Safety Code. This notice is recorded pursuant to Section 1773.6 of the California Health and Safety Code.

The real property which is the subject of the statutory limitation to which this notice refers is more particularly described as follows: (Insert the legal description and the assessor's parcel number of the real property to which this notice applies).

(c) The notice shall remain in effect until notice of release is given by the department. The department shall execute and record a release of the notice upon proof of complete performance of all obligations to transferors.

(d) Unless a notice has already been recorded with respect to the land on which the provider is operating or intends to operate a life care facility, prior to the date of execution of any trust deed, mortgage or any other lien or encumbrance, securing or evidencing the payment of money and affecting land on which the provider intends to operate a life care facility the provider shall give the department written notice of the proposed encumbrance. Upon the giving of notice to the department, the provider shall execute and record the notice in the office of the county recorder in each county in which any portion of the life care facility is located. In the event that the provider and the owner of record are not the same entity or individual on the date on which execution and recordation of the notice is required, the provider shall serve a copy of the notice on the owner of record by certified mail. The notice shall be indexed by the recorder in the grantor-grantee index to the name of the owner of record and the name of the provider.

SEC. 2. Section 1773.8 of the Health and Safety Code is amended to read:

1773.8. (a) Before obtaining a permit to sell deposit subscriptions or a certificate of authority, each provider shall submit to the department a financial and marketing plan, including occupancy projections, covering the project development period and a period of at least five years after the opening of the facility for occupancy. If at any time prior to issuance of a certificate of authority, the provider's average performance over any six-month period does not substantially equal or exceed the provider's projections for that period, the department, in consultation with the advisory board, may cancel the permit to sell deposit subscriptions, may increase the percentages of completion of construction or the numbers or percentages of deposits on entrance fees required under Sections 1773.7, 1773.9, 1780.5, and 1780.6, or may increase the reserve requirements under this chapter for that provider. Prior to taking

any of these actions, the department shall give the provider an opportunity to submit a feasibility study from a consultant in the area of life care, approved by the department, to determine whether or not in his or her opinion the project is still viable, and, if so, to determine a plan of correction acceptable to the department, in consultation with the advisory board. In any event, in making its determination, the department shall take into consideration the overall performance of the project to date. In the event consideration has been released from escrow, the department may further require the provider to reopen the escrow as a condition of receiving any further payments from applicants for life care.

(b) In addition to the requirements of subdivision (a), a provider, before obtaining a permit to sell deposit subscriptions, shall also submit documentation evidencing a preliminary approval for licensure from the State Department of Social Services, Community Care Licensing Division or the State Department of Health Services, Licensing and Certification Division, as appropriate, in order to demonstrate ability and intent to comply with subdivision (a) of Section 1770.

SEC. 3. Section 1777 of the Health and Safety Code is amended to read:

1777. Obligations pursuant to life care agreements executed by a provider shall be deemed a preferred claim against all assets owned by the provider in the event of liquidation. However, this preferred claim shall be subject to any perfected claims secured by mortgage, deed of trust, pledge, deposit as security, escrow, or otherwise secured.

For purposes of computing the reserve required pursuant to Section 1775, the liens required under Section 1772 shall not be deducted from the value of real or personal property.

CHAPTER 1083

An act to amend Section 308 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When a peace officer or social worker takes a minor into custody pursuant to this article, he or she shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that the minor is in custody and the place where he or she is being held, except that, upon order of the juvenile court, the parent or guardian

shall not be notified of the exact whereabouts of the minor. The court shall issue such an order only upon a showing that notifying the parent or guardian of the exact whereabouts would endanger the child or that the parent or guardian is likely to flee with the child. However, if it is impossible or impracticable to obtain a court order authorizing nondisclosure prior to the detention hearing, and if the peace officer or social worker has a reasonable belief that the minor would be endangered by the disclosure of his or her exact whereabouts, or that the disclosure would cause the custody of the minor to be disturbed, the peace officer or social worker may refuse to disclose the place where the minor is being held. The county welfare department shall make a diligent and reasonable effort to ensure regular telephone contact between the parent and a child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody. The court shall review any such decision not to disclose the place where the minor is being held at the detention hearing, and shall conduct that review within 24 hours upon the application of a parent, guardian, or a responsible relative.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he or she has been taken into custody, a minor 10 years of age or older shall be advised that he or she has the right to make at least two telephone calls from the place where he or she is being held, one call completed to his or her parent, guardian, or a responsible relative, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his or her right to make these telephone calls is guilty of a misdemeanor.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1084

An act to amend Section 7155.5 of the Health and Safety Code, relating to AIDS.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 7155.5 of the Health and Safety Code is amended to read:

7155.5. (a) The donee may accept or reject a gift. If the donee accepts a gift of the entire body, the donee may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons specified in Section 7100.

(b) The donee, in order to receive a gift, may act through a licensed physician or trained transplant technician authorized by the donee, or through a licensed embalmer, pursuant to Section 7634 of the Business and Professions Code, who shall remove tissue from a legally dead individual for transplant, therapeutic, or scientific purposes . The State Department of Health Services shall adopt regulations to implement this subdivision and shall adopt regulations requiring infectious disease screening of all organ and tissue donors for organs and tissues intended for transplantation. This screening shall include, but not be limited to, human immunodeficiency virus (HIV) antibody testing.

(c) The time of death shall be determined by a physician who tends the donor at his or her death, or, if none, the physician or coroner who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(d) No county coroner or medical examiner, nor any authorized agent thereof, shall be liable for damages in any civil action as a result of his or her act or omission relative to procedures undertaken pursuant to this chapter or to anatomical gifts offered under Section 12811 of the Vehicle Code.

(e) Any person who acts in good faith with the terms of this chapter, including acts pursuant to anatomical gifts offered under Section 12811 of the Vehicle Code, shall not be liable for damages in any civil action or subject to prosecution in any criminal proceeding for his or her act.

(f) For purposes of this section, "trained transplant technician" means a person who has completed training in tissue removal for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

SEC. 2. Section 7155.5 is added to the Health and Safety Code, to read:

7155.5. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended. All donors shall be screened for infectious diseases, including human immunodeficiency virus (HIV) antibody testing, pursuant to regulations adopted by the State Department of Health Services.

(b) The provisions of this chapter are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to Section 7150.5 or 7151 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

SEC. 3. Section 2 of this bill shall only become operative if (1) both this bill and SB 2777 are enacted and become effective on January 1, 1989, and (2) this bill is enacted after SB 2777, in which case Section 7155.5 of the Health and Safety Code, as amended by Section 1 of this act, shall not become operative.

CHAPTER 1085

An act to amend Section 25250.24 of the Health and Safety Code, relating to used oil.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 25250.24 of the Health and Safety Code, is amended to read:

25250.24. (a) Except as provided in subdivision (b), any person who generates, receives, stores, transfers, transports, treats, or recycles used oil, unless specifically exempted or unless the used oil is not regulated by the department pursuant to subdivision (e) of Section 25250.1, shall comply with all provisions of this chapter.

(b) Used oil which is removed from a motor vehicle and which is subsequently recycled, by a recycler who is permitted pursuant to this article, shall not be included in the calculation of the amount of hazardous waste generated for purposes of the generator fee imposed pursuant to Section 25205.5.

CHAPTER 1086

An act to amend Section 1000 of the Penal Code, relating to crimes.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1000 of the Penal Code is amended to read:

1000. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading for violation of Section 11350, 11357, 11364, 11365, 11377, or 11550 of the Health and Safety Code, or Section 11358 of the Health and Safety Code if the marijuana planted, cultivated, harvested, dried, or processed is for personal use, or Section 11368 of the Health and Safety Code if the narcotic drug was secured by a fictitious prescription and is for the personal use of the defendant and was not sold or furnished to another, or subdivision (d) of Section 653f if the solicitation was for acts directed to personal use only, or Section 381 or subdivision (f) of Section 647 of the Penal Code, if for being under the influence of a controlled substance, or Section 4230 of the Business and Professions Code, and it appears to the district attorney that, except as provided in subdivision (b) of Section 11357 of the Health and Safety Code, all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving controlled substances prior to the alleged commission of the charged divertible offense.

(2) The offense charged did not involve a crime of violence or threatened violence.

(3) There is no evidence of a violation relating to narcotics or restricted dangerous drugs other than a violation of the sections listed in this subdivision.

(4) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(5) The defendant's record does not indicate that he or she has been diverted pursuant to this chapter within five years prior to the alleged commission of the charged divertible offense.

(6) The defendant has no prior felony conviction within five years prior to the alleged commission of the charged divertible offense.

(b) The district attorney shall review his or her file to determine whether or not paragraphs (1) to (6), inclusive, of subdivision (a) are applicable to the defendant. Upon the agreement of the district attorney, law enforcement, the public defender, the presiding judge of the criminal division of the municipal court or a judge designated by the presiding judge, and the probation department of each county, this procedure shall be completed as soon as possible after the initial filing of the charges. If the defendant is found eligible, the district attorney shall file with the court a declaration in writing or

state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney. This procedure is intended to allow the court to hold the diversion hearing at the arraignment. If the defendant is found ineligible, the district attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney.

(c) Successful completion of diversion for a violation of Section 11368 of the Health and Safety Code shall not prohibit any administrative agency from taking disciplinary action against a licensee or from denying a license. Nothing in this subdivision shall be construed to expand or restrict the provisions of Section 1000.5.

SEC. 2. Pursuant to Section 17579 of the Government Code, the Legislature finds that there is no mandate contained in this act which will result in costs incurred by a local agency or school district for a new program or higher level of service which require reimbursement pursuant to Section 6 of Article XIII B of the California Constitution and Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

CHAPTER 1087

An act to amend Sections 69795, 69796, and 69798 of, and to add Sections 69274.6 and 69796.5 to, the Education Code, and to amend Section 3 of Chapter 1307 of the Statutes of 1987, relating to education, and making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 69274.6 is added to the Education Code, to read:

69274.6. When making recommendations to the Director of the Office of Statewide Health Planning and Development concerning the funding of family practice programs or departments, family practice residencies, and programs for the training of primary care physicians' assistants and primary care nurse practitioners, the commission shall give priority to programs that have demonstrated success in the following areas:

(a) Actual placement of individuals in medically underserved areas.

(b) Success in attracting and admitting members of minority groups to the program.

(c) Success in attracting and admitting individuals who were

former residents of medically underserved areas.

(d) Location of the program in a medically underserved area.

(e) The degree to which the program has agreed to accept individuals with an obligation to repay loans awarded pursuant to the Minority Health Professions Education Fund.

SEC. 2. Section 69795 of the Education Code is amended to read:

69795. As used in this article:

(a) "Board" means the Board of Trustees of the Minority Health Professions Education Foundation.

(b) "Commission" means the Health Manpower Policy Commission.

(c) "Director" means the Director of the Office of Statewide Health Planning and Development.

(d) "Foundation" means the Minority Health Professions Education Foundation.

(e) "Health professions" or "health professionals" means physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, dentists, registered nurses, and other health professionals determined by the office to be needed in medically underserved areas.

(f) "Office" means the Office of Statewide Health Planning and Development.

(g) "Underrepresented minority groups" means Blacks, Hispanics/Latinos, Native American Indians, or other persons underrepresented in medicine, dentistry, nursing, or other health professions as determined by the board. After January 1, 1990, the board, upon a finding that the action is necessary to meet the health care needs of medically underserved areas, may add a group comprising the economically disadvantaged to those groups authorized to receive assistance under this article.

SEC. 3. Section 69796 of the Education Code is amended to read:

69796. (a) The office shall establish a nonprofit public benefit corporation, to be known as the Minority Health Professions Education Foundation, that shall be governed by a board consisting of nine members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Committee on Rules. The members of the foundation board appointed by the Governor, Speaker of the Assembly and Senate Committee on Rules may include representatives of minority groups which are underrepresented in the health professions, persons employed as health professionals, and other appropriate members of health or related professions. All persons considered for appointment shall have an interest in health programs, an interest in minority health educational opportunities, and the ability and desire to solicit funds for the purposes of this article as determined by the appointing power. The Chairperson of the commission shall also be a nonvoting, ex officio member of the board.

(b) The Governor shall appoint the president of the board of trustees from among those members appointed by the Governor, the Speaker of the Assembly, and the Senate Committee on Rules.

(c) The director, after consultation with the president of the board, may appoint a council of advisers comprised of up to nine members. The council shall advise the director and the board on technical matters and programmatic issues related to the Minority Health Professions Education Foundation Program.

(d) Members of the board and members of the council shall serve without compensation but shall be reimbursed for any actual and necessary expenses incurred in connection with their duties as members of the board or the council.

(e) The foundation shall be subject to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), except that if there is a conflict with this article and the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 2 of the Corporations Code), this article shall prevail.

SEC. 4. Section 69796.5 is added to the Education Code, to read:

69796.5. (a) Of the members of the board first appointed by the Governor pursuant to Section 69796, three members shall be appointed to serve a two-year term, three members shall be appointed to serve a three-year term, and three members shall be appointed to serve a four-year term.

(b) Of the members of the board first appointed by the Speaker of the Assembly and the Senate Committee on Rules pursuant to Section 69796, each member shall be appointed to serve a four-year term.

(c) Upon the expiration of the initial appointments for the board, each member shall be appointed to serve a four-year term.

SEC. 5. Section 69798 of the Education Code is amended to read:

69798. The Minority Health Professions Education Foundation may do any of the following:

(a) Solicit and receive funds from business, industry, foundations, and other private or public sources for the purpose of providing financial assistance in the form of scholarships or loans to Black students, Hispanic/Latino students, Native American Indian students, and other students from underrepresented minority groups. These funds shall be expended by the Office after transfer to the Minority Health Professions Education Fund, created pursuant to Section 69800.

(b) Recommend to the director the disbursement of private sector moneys deposited in the Minority Health Professions Education Fund to students from underrepresented minority groups accepted to or enrolled in schools of medicine, dentistry, nursing, or other health professions in the form of loans or scholarships.

(c) Recommend to the director a standard contractual agreement to be signed by the director and any participating student, that

would require a period of obligated professional service in the areas in California designated by the commission as deficient in primary care services. The agreement shall include a clause entitling the state to recover the funds awarded plus the maximum allowable interest for failure to begin or complete the service obligation.

(d) Develop criteria for evaluating the likelihood that applicants for scholarships or loans would remain to practice their profession in designated areas deficient in primary care services.

(e) Develop application forms, which shall be disseminated to students from underrepresented minority groups interested in applying for scholarships or loans.

(f) Encourage private sector institutions, including hospitals, community clinics, and other health agencies to identify and provide educational experiences to students from underrepresented minority groups who are potential applicants to schools of medicine, dentistry, nursing, or other health professions.

(g) Prepare and submit an annual report to the Office of Statewide Health Planning and Development documenting the amount of money solicited from the private sector, the number of scholarships and loans awarded, the enrollment levels of students from underrepresented minority groups in schools of medicine, dentistry, nursing, and other health professions, and the projected need for scholarships and loans in the future.

(h) Recommend to the director that a portion of the funds solicited from the private sector be used for the administrative requirements of the foundation.

SEC. 6. Section 3 of Chapter 1307 of the Statutes of 1987 is amended to read:

Sec. 3. (a) The sum of one million two hundred thousand dollars ($1,200,000) is hereby appropriated from the Health Facility Construction Loan Insurance Fund, established pursuant to Section 436.26 of the Health and Safety Code, to the Office of Statewide Health Planning and Development, for expenditure without regard to fiscal years, for allocation in accordance with the following schedule:

(1) For contracts with medical center or hospital training institutions which train family practice residents to increase the participation of students from underrepresented minority groups in the specialty of family practice	$650,000
(2) For contracts with medical center or hospital training institutions which train postgraduate osteopathic physicians in general or family medicine, to increase the participation of students from underrepresented minority groups participating in the practice of osteopathy	$350,000
(3) For administrative responsibilities of the Office of Statewide Health Planning and Development	

and the Minority Health Professions Education Foundation pursuant to Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code. $200,000

(b) The amount appropriated for contracts to the training institutions pursuant to paragraphs (1) and (2) of subdivision (a) shall not exceed the cost incurred pursuant to Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code and shall not be construed to be a subsidy to the training institutions.

(c) The funds specified in paragraphs (1) and (2) of subdivision (a) shall be available only to residency programs and postgraduate programs that make a demonstrable showing that they are increasing the number of enrolled students from underrepresented minority groups.

(d) The director may use the funds specified in paragraph (3) of subdivision (a) for sole-source contracts for technical and staff services needed by the office and the foundation for the purposes of Article 14 (commencing with Section 69795) of Chapter 2 of Part 42 of the Education Code.

SEC. 7. On January 1, 1989, the unexpended balance of the appropriation made to the Office of Statewide Health Planning and Development by Section 3 of Chapter 1307 of the Statutes of 1987 shall be transferred to the Minority Health Professions Education Fund, created by Section 69800 of the Education Code.

Any interest due on this money or any other money deposited in the Minority Health Professions Education Fund shall remain in, and be for the benefit of, that fund until expended by the Office of Statewide Health Planning and Development.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Office of Statewide Health Planning and Development may form a nonprofit corporation to address and fund the critical shortage of qualified health professionals in health manpower shortage areas at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1088

An act to add Section 26 to the Health and Safety Code, and to add Section 1524.1 to the Penal Code, relating to acquired immune deficiency syndrome.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 26 is added to the Health and Safety Code, to read:

26. As used in this code:

(a) "AIDS" means acquired immune deficiency syndrome.

(b) "Human immunodeficiency virus" or "HIV" means the etiologic virus of AIDS.

(c) "HIV test" means any clinical laboratory test approved by the federal Food and Drug Administration for HIV, component of HIV, or antibodies to HIV.

SEC. 1.5. Section 1524.1 is added to the Penal Code, to read:

1524.1. (a) The primary purpose of the testing and disclosure provided in this section is to benefit the victim of a crime by informing the victim whether the defendant is infected with the AIDS virus. It is also the intent of the Legislature in enacting this section to protect the health of both victims of crime and those accused of committing a crime. Nothing in this section shall be construed to authorize mandatory testing or disclosure of test results for the purpose of a charging decision by a prosecutor, nor, except as specified in subdivisions (g) and (i), shall this section be construed to authorize breach of the confidentiality provisions contained in Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1 of the Health and Safety Code.

(b) (1) Notwithstanding the provisions of Chapter 1.11 (commencing with Section 199.20) of Part 1 of Division 1 of the Health and Safety Code, when a defendant has been charged by complaint, information, or indictment with a crime, or a minor is the subject of a petition filed in juvenile court alleging commission of a crime, the court, at the request of the victim, may issue a search warrant for the purpose of testing the accused's blood with any HIV test, as defined in Section 26 of the Health and Safety Code only under the following circumstances: When the court finds, upon the conclusion of the hearing described in paragraph (2), or in those cases in which a preliminary hearing is not required to be held, the court also finds that there is probable cause to believe that the accused committed the offense, that there is probable cause to believe that blood, semen, or any other body fluid identified by the State Department of Health Services in appropriate regulations as capable of transmitting the human immunodeficiency virus has been

transferred from the accused to the victim.

(2) Prior to the issuance of a search warrant pursuant to paragraph (1), the court, where applicable and at the conclusion of the preliminary examination if the defendant is ordered to answer pursuant to Section 872, shall conduct a hearing at which both the victim and the defendant have the right to be present. During the hearing only affidavits, counter affidavits, and medical reports regarding the facts which support or rebut the issuance of a search warrant under paragraph (1) shall be admissible.

(c) (1) In all cases in which the person has been charged by complaint, information, or indictment with a crime, or is the subject of a petition filed in a juvenile court alleging the commission of a crime, the prosecutor shall advise the victim of his or her right to make this request. To assist the victim of the crime to determine whether he or she should make this request, the prosecutor shall refer the victim to the local health officer for prerequest counseling to help that person understand the extent to which the particular circumstances of the crime may or may not have put the victim at risk of transmission of HIV from the accused, to ensure that the victim understands both the benefits and limitations of the current tests for HIV, to help the victim decide whether he or she wants to request that the accused be tested, and to help the victim decide whether he or she wants to be tested.

(2) The Department of Justice, in cooperation with the California District Attorneys Association, shall prepare a form to be used in providing victims with the notice required by paragraph (1).

(d) If the victim decides to request HIV testing of the accused, the victim shall request the issuance of a search warrant, as described in subdivision (b).

Neither the failure of a prosecutor to refer or advise the victim as provided in this subdivision, nor the failure or refusal by the victim to seek or obtain counseling, shall be considered by the court in ruling on the victim's request.

(e) The local health officer shall make provision for administering all HIV tests ordered pursuant to subdivision (b).

(f) Any blood tested pursuant to subdivision (b) shall be subjected to appropriate confirmatory tests to ensure accuracy of the first test results, and under no circumstances shall test results be transmitted to the victim or the accused unless any initially reactive test result has been confirmed by appropriate confirmatory tests for positive reactors.

(g) The local health officer shall have the responsibility for disclosing test results to the victim who requested the test and to the accused who was tested, provided, however, that no positive test results shall be disclosed to the victim or to the accused without also providing or offering professional counseling appropriate to the circumstances.

(h) The local health officer and victim shall comply with all laws and policies relating to medical confidentiality subject to the

disclosure authorized by subdivisions (g) and (i).

(i) Any victim who receives information from the health officer pursuant to subdivision (g) may disclose the test results as the victim deems necessary to protect his or her health and safety or the health and safety of his or her family or sexual partner.

(j) Any person transmitting test results or disclosing information pursuant to this section shall be immune from civil liability for any actions taken in compliance with this section.

(k) The results of any blood tested pursuant to subdivision (b) shall not be used in any criminal proceeding as evidence of either guilt or innocence.

SEC. 2. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1089

An act to repeal and add Section 22233 of the Education Code, and to amend Sections 20135 and 20498 of, to repeal Section 21301 of, and to repeal and add Section 20180 to, the Government Code, relating to public retirement systems.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 22233 of the Education Code is repealed.

SEC. 2. Section 22233 is added to the Education Code, to read:

22233. (a) Subject to subdivision (c), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any member, retirant, or any beneficiary of any member or retirant, provided that all of the following facts exist:

(1) The error or omission was the result of mistake, inadvertence, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(2) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member, retirant, or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable

under this section.

(b) Subject to subdivision (c), the board may correct all actions taken as a result of errors or omissions of the employer or this system.

(c) The duty and power of the board to correct errors and omissions, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 22007.

(d) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

SEC. 3. Section 20135 of the Government Code is amended to read:

20135. Retired members of the system, and beneficiaries who are entitled to receive allowances or benefits under this part, may authorize deductions to be made from their retirement allowance payments or from the allowances and benefits, respectively, or from either or both where both are being received, in accordance with regulations established by the board for the payment of group insurance premiums and other premiums for benefits or protection provided for under Section 1151 of the Government Code, including employer-sponsored voluntary insurance programs, for credit union payments or shares, or for the payment, with respect to retired state members of the system, of dues provided for under Section 1152. The board shall determine the additional cost involved in making deductions under this section and the state agency, the public agency, the association, or the unit thereof, or the credit union shall pay the amount of the additional cost to the board for deposit in the retirement fund.

SEC. 4. Section 20180 of the Government Code is repealed.

SEC. 5. Section 20180 is added to the Government Code, to read:

20180. (a) Subject to subdivisions (c) and (d), the board may, in its discretion and upon any terms it deems just, correct the errors or omissions of any active or retired member, or any beneficiary of an active or retired member, provided that all of the following facts

exist:

(1) The request, claim, or demand to correct the error or omission is made by the party seeking correction within a reasonable time after discovery of the right to make the correction, which in no case shall exceed six months after discovery of this right.

(2) The error or omission was the result of mistake, inadvertance, surprise, or excusable neglect, as each of those terms is used in Section 473 of the Code of Civil Procedure.

(3) The correction will not provide the party seeking correction with a status, right, or obligation not otherwise available under this part.

Failure by a member or beneficiary to make the inquiry that would be made by a reasonable person in like or similar circumstances does not constitute an "error or omission" correctable under this section.

(b) Subject to subdivisions (c) and (d), the board shall correct all actions taken as a result of errors or omissions of the university, any contracting agency, any state agency or department, or this system.

(c) The duty and power of the board to correct mistakes, as provided in this section, shall terminate upon the expiration of obligations of this system to the party seeking correction of the error or omission, as those obligations are defined by Section 20181.

(d) The party seeking correction of an error or omission pursuant to this section has the burden of presenting documentation or other evidence to the board establishing the right to correction pursuant to subdivisions (a) and (b).

(e) Corrections of errors or omissions pursuant to this section shall be such that the status, rights, and obligations of all parties described in subdivisions (a) and (b) are adjusted to be the same that they would have been if the act that would have been taken, but for the error or omission, was taken at the proper time. However, notwithstanding any of the other provisions of this section, corrections made pursuant to this section shall adjust the status, rights, and obligations of all parties described in subdivisions (a) and (b) as of the time that the correction actually takes place if the board finds any of the following:

(1) That the correction cannot be performed in a retroactive manner.

(2) That even if the correction can be performed in a retroactive manner, the status, rights, and obligations of all of the parties described in subdivisions (a) and (b) cannot be adjusted to be the same that they would have been if the error or omission had not occurred.

(3) That the purposes of this part will not be effectuated if the correction is performed in a retroactive manner.

SEC. 6. Section 20498 of the Government Code is amended to read:

20498. If the effective date of coverage under the federal system of members who are employees of a contracting agency under the Public Employees' Retirement System is prior to the time employee

federal contributions are first deducted from the salaries and wages of the employees and a reduced benefit is provided with respect to service from and after the effective date of coverage, member contributions shall be transferred in the manner and to the extent provided in this section to the Old Age and Survivors' Insurance Revolving Fund and applied to payment of employee federal contributions for the period prior to the deductions.

There shall be transferred from the member's accumulated contributions an amount equal to employee federal contributions due for the member. The amount so transferred shall not exceed the difference between the total normal contributions of the member and the normal contributions which would have been credited to his or her account had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after the effective date of coverage, assuming that contributions in any year were made in equal monthly installments.

The amount by which the retroactive employee contributions due for a member exceeds the amount transferred from the employee account shall be transmitted to the fund by the contracting agency and constitute an indebtedness of the member to the employer and a lien on any salary or wages payable to the employee or on his or her account.

If the contract is or has been amended to provide for the transfer of retroactive employee contributions in the manner provided in this section the amount by which (1) the total normal contributions of each member for the period subsequent to the effective date of coverage under the federal system less the total normal contributions which would have been credited to the account of the member had the reduced rate of contribution provided in the amended contract with the public agency been in effect from and after the aforesaid date of coverage exceed (2) the employee federal contributions for the member for the period after the date of coverage shall be paid to the member.

SEC. 7. Section 21301 of the Government Code is repealed.

CHAPTER 1090

An act to amend Sections 4984.7, 4986.80, 4996.3, and 4996.6 of, and to repeal Section 4986.41 of, the Business and Professions Code, relating to behavioral science, and making an appropriation therefor.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 4984.7 of the Business and Professions Code is amended to read:

4984.7. The amount of the fees prescribed by this chapter which relate to licensing of persons to engage in the business of marriage, family and child counseling is that fixed by the following schedule:

(a) The fee for applications for original licensure received on or after July 1, 1986, shall be eighty dollars ($80). The fee for applications for original licensure received on or after January 1, 1987, shall be one hundred dollars ($100).

(b) For those persons whose license expires on or after January 1, 1987, the renewal fee shall be sixty dollars ($60). For those persons whose license expires on or after January 1, 1989, the renewal fee shall be one hundred dollars ($100).

(c) The delinquency fee shall be that prescribed by Section 163.5. Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(d) For those persons registering as interns on or after January 1, 1987, the registration fee shall be thirty dollars ($30). For those persons registering as interns on or after January 1, 1989, the registration fee shall be sixty dollars ($60).

(e) For those persons whose registration as an intern expires on or after January 1, 1987, the renewal fee shall be twenty-five dollars ($25). For those persons whose registration as an intern expires on or after January 1, 1989, the renewal fee shall be fifty dollars ($50).

(f) The examination fee shall be fifty dollars ($50).

(g) Persons failing the examination may apply for reexamination and each application shall be accompanied by a reexamination fee in the amount of fifty dollars ($50). Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

(h) The fee for rescoring an examination shall be fifty dollars ($50).

(i) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(j) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

SEC. 2. Section 4986.41 of the Business and Professions Code is repealed.

SEC. 3. Section 4986.80 of the Business and Professions Code is amended to read:

4986.80. The amount of the fees prescribed by this chapter which relate to the licensing of educational psychologists is that fixed by the following schedule:

(a) Persons applying for an original license after July 1, 1986, shall pay an application fee of one hundred dollars ($100).

(b) Persons whose license expires after January 1, 1987, shall pay a fee of sixty dollars ($60). Persons whose license expires on or after January 1, 1989, shall pay a renewal fee of one hundred dollars ($100).

(c) The delinquency fee shall be that prescribed by Section 163.5. Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(d) The examination fee shall be fifty dollars ($50).

(e) An applicant who has failed the examination may apply for reexamination if he or she applies within the 12-month period subsequent to failure of the examination. The reexamination fee shall be fifty dollars ($50) for each application. Persons failing to appear for reexamination once having been scheduled shall forfeit any reexamination fees paid.

(f) The fee for rescoring an examination shall be fifty dollars ($50).

(g) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(h) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

SEC. 4. Section 4996.3 of the Business and Professions Code is amended to read:

4996.3. (a) Each application for original licensure received on or after January 1, 1989, shall be accompanied by an application fee of one hundred dollars ($100) and an examination fee of fifty dollars ($50), which shall be deposited by the board into the State Treasury to the credit of the Behavioral Science Examiners Fund.

(b) The fee for rescoring an examination shall be fifty dollars ($50).

SEC. 5. Section 4996.6 of the Business and Professions Code is amended to read:

4996.6. (a) A renewal fee in the sum of sixty dollars ($60) shall be charged and collected on a biennial basis by the board in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Science Examiners Fund. The renewal fee for licenses which expire on or after January 1, 1989, shall be one hundred dollars ($100).

(b) If the license is renewed more than 30 days after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee in the amount prescribed by Section 163.5.

Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees which he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(c) The fee for issuance of a duplicate registration, license, or certificate to replace one which was lost or destroyed or where there was a name change shall be ten dollars ($10).

(d) The fee for issuance of a certificate or letter of good standing shall be ten dollars ($10).

CHAPTER 1091

An act to amend Sections 4992.3 and 4996.2 of, to add Sections 4996.18 and 4996.20 to, and to repeal Sections 4992.2 and 4996.17 of, the Business and Professions Code, relating to social workers, and making an appropriation therefor.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 4992.2 of the Business and Professions Code is repealed.

SEC. 2. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may refuse to issue a registration or a license, or may suspend or revoke the license or registration of any registrant or licensee if the applicant, licensee, or registrant has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter is a conviction within the meaning of this section. The board may order any license or registration suspended or revoked, or may decline to issue a license or registration when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or, when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw a plea of guilty and enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

(b) Securing a license or registration by fraud, deceit, or misrepresentation on any application for licensure or registration submitted to the board, whether engaged in by an applicant for a license or registration, or by a licensee in support of any application for licensure or registration.

(c) Administering to himself or herself any controlled substance or using of any of the dangerous drugs specified in Section 4211, or of any alcoholic beverage to the extent, or in a manner, as to be

dangerous or injurious to the person applying for a registration or license or holding a registration or license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a registration or license to conduct with safety to the public the practice authorized by the registration or license, or the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any of the substances referred to in this subdivision, or any combination thereof. The board shall deny an application for a registration or license or revoke the license or registration of any person who uses or offers to use drugs in the course of performing clinical social work. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

(d) Gross negligence or incompetence in the performance of clinical social work.

(e) Violating, attempting to violate, or conspiring to violate this chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(*l*) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client which is obtained from tests or

other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

(o) Paying, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of professional clients. All consideration, compensation, or remuneration shall be in relation to professional counseling services actually provided by the licensee. Nothing in this subdivision shall prevent collaboration among two or more licensees in a case or cases. However, no fee shall be charged for that collaboration, except when disclosure of the fee has been made in compliance with subdivision (n).

(p) Advertising in a manner which is false, misleading, or deceptive.

(q) Reproduction or description in public, or in any publication subject to general public distribution, of any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device.

(r) Any conduct in the supervision of any registered associate clinical social worker or intern by any licensee that violates this chapter or any rules or regulations adopted by the board.

SEC. 3. Section 4996.2 of the Business and Professions Code is amended to read:

4996.2. Each applicant shall furnish evidence satisfactory to the board that he or she complies with all of the following requirements:

(a) Is at least 21 years of age.

(b) Has received a master's degree from an accredited school of social work.

(c) Has had two years of supervised postmasters' experience, as specified in Section 4996.20.

(d) Has not committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(e) Has completed adequate instruction and training in the subject of alcoholism and other chemical substance dependency. This requirement applies only to applicants who matriculate on or after January 1, 1986.

SEC. 4. Section 4996.17 of the Business and Professions Code is repealed.

SEC. 5. Section 4996.18 is added to the Business and Professions Code, to read:

4996.18. (a) On or after January 1, 1990, any person who wishes to be credited with experience toward licensure requirements shall apply to the board for registration as an associate clinical social worker prior to obtaining that experience. The application shall be made on a form prescribed by the board and shall be accompanied by a fee of sixty dollars ($60). An applicant for registration shall (1)

possess a master's degree from an accredited school or department of social work; and (2) not have committed any crimes or acts constituting grounds for denial of licensure under Section 480.

(b) Registration as an associate clinical social worker shall expire one year from the last day of the month during which it was issued. A registration may be renewed annually for a maximum of five years after initial registration by filing an application for renewal and paying a renewal fee of fifty dollars ($50) on or before the date on which the registration expires. Each person who registers or has registered as an associate clinical social worker, may retain that status for a total of six years.

(c) Experience gained before January 1, 1990, shall be credited toward the licensure requirements so long as the applicant applies for registration not later than December 31, 1989, and that registration is thereafter granted by the board.

(d) A registrant shall not provide clinical social work services to the public for a fee, monetary or otherwise, except as an employee of the licensed person by whom the registrant is being supervised.

(e) Within 30 days of employment or termination of employment, a registrant employed by a person who meets the requirements of subdivision (b) of Section 4996.20 shall notify the board in writing of the employment or termination of employment. The notice shall include the name of the registrant, the full name and business address of the employer, the employer's license number, and the date employment commenced or terminated. If a registrant fails to notify the board within 30 days after the date of his or her employment or termination of employment, the board shall not accept any hours of experience gained during that period for the purposes of meeting the experience requirements for licensure.

(f) A registrant shall inform each client or patient prior to performing any professional services that he or she is unlicensed and is under the supervision of a licensed professional.

(g) Any experience obtained under the supervision of a spouse or relative by blood or marriage shall not be credited toward the required hours of supervised experience. Any experience obtained under the supervision of a supervisor with whom the applicant has a personal relationship which undermines the authority or effectiveness of the supervision shall not be credited toward the required hours of supervised experience.

SEC. 6. Section 4996.20 is added to the Business and Professions Code, to read:

4996.20. The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or

after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed. The board may credit experience gained more than six years prior to the date on which an application was filed upon a showing of good cause or where the applicant is licensed and currently practicing in another state.

(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.

For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct individual supervision for each week of experience claimed. "Individual supervision" means a one-to-one ratio of supervisor to applicant.

(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:

(1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.

(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(3) Perform services at any place except where the registrant's employer regularly conducts business.

(4) Have any proprietary interest in the employer's business.

(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.

SEC. 7. It is the intent of the Legislature that nothing contained in this act shall be construed to alter the scope of practice for licensed clinical social workers.

CHAPTER 1092

An act to amend Sections 2982, 2982.8, 2983.2, and 3068 of the Civil Code, and to amend Section 10652.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 2982 of the Civil Code is amended to read:

2982. Every conditional sale contract subject to this chapter shall contain the disclosures required by Regulation Z whether or not Regulation Z applies to the transaction. In addition, to the extent applicable, the contract shall contain the other disclosures and notices required by, and shall satisfy the requirements and limitations of, this section. The disclosures required by subdivision (a) may be itemized or subtotaled to a greater extent than as required by that subdivision and shall be made together and in the sequence set forth in that subdivision. All other disclosures and notices may appear in the contract in any location or sequence and may be combined or interspersed with other provisions of the contract.

(a) The contract shall contain the following disclosures, as applicable, which shall be labeled "itemization of the amount financed":

(1) (A) The cash price, exclusive of document preparation fees, taxes imposed on the sale, pollution control certification fees, and the amount charged for a service contract.

(B) The fee to be retained by the seller for document preparation.

(C) The fee charged by the seller for certifying that the motor vehicle complies with applicable pollution control requirements.

(D) Taxes imposed on the sale.

(E) The amount charged for a service contract.

(F) The total cash price, which is the sum of subparagraphs (A) to (E), inclusive.

(2) An itemization of the amounts to be paid to any public officer for license, certificate of title, and registration.

(3) The aggregate amount of premiums agreed, upon execution of the contract, to be paid for policies of insurance included in the contract, excluding the amount of any insurance premium included in the finance charge.

(4) The amount of the state fee for issuance of a certificate of compliance, noncompliance, or waiver pursuant to any applicable pollution control statute.

(5) A subtotal representing the sum of the foregoing items.

(6) The amount of the buyer's downpayment itemized to show the following:

(A) The net agreed value of the property being traded in.

(B) The amount of any portion of the downpayment to be deferred until not later than the due date of the second regularly scheduled installment under the contract and which is not subject to a finance charge.

(C) The amount of any manufacturer's rebate applied or to be applied to the downpayment.

(D) The remaining amount paid or to be paid by the buyer as a downpayment.

(7) The amount of any administrative finance charge, labeled "prepaid finance charge."

(8) The difference between item (5) and the sum of items (6) and (7), labeled "amount financed."

(b) No particular terminology is required to disclose the items set forth in subdivision (a) except as expressly provided in that subdivision.

(c) If payment of all or a portion of the downpayment is to be deferred, the deferred payment shall be reflected in the payment schedule disclosed pursuant to Regulation Z.

(d) If the downpayment includes property being traded in, the contract shall contain a brief description of that property.

(e) The contract shall contain the names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 is to be sent.

(f) (1) Where the contract includes a finance charge determined on the precomputed basis, the contract shall identify the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and contain a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the actuarial method if the computation will be under that method. The method of computing the unearned portion of the finance charge shall be sufficiently identified with a reference to the Rule of 78's, the sum of the digits, or the sum of the periodic time balances method in all other cases, and those references shall be deemed to be equivalent for disclosure purposes.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, the contract shall contain a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(g) (1) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other

than actuarial, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(2) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is $1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(3) Where the contract includes a finance charge which is determined on the simple-interest basis, the contract shall contain a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(h) The contract shall contain a notice, in at least 8-point bold type if the contract is printed, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

(i) (1) The contract shall contain an itemization of any insurance included as part of the amount financed disclosed pursuant to paragraph (3) of subdivision (a) and of any insurance included as part of the finance charge. The itemization shall identify the type of insurance coverage and the premium charged therefor, and, if the insurance expires before the date of the last scheduled installment

included in the repayment schedule, the term of the insurance shall be stated.

(2) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof is to be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(j) (1) The dollar amount of the disclosed finance charge shall not exceed the greater of:

(A) (i) One and one-half percent on so much of the unpaid balance as does not exceed two hundred twenty-five dollars ($225), 1⅙ percent on so much of the unpaid balance in excess of two hundred twenty-five dollars ($225) as does not exceed nine hundred dollars ($900), ⅚ of 1 percent on so much of the unpaid balance in excess of nine hundred dollars ($900) as does not exceed one thousand six hundred fifty dollars ($1,650), and $^{13}/_{24}$ of 1 percent on that portion of the unpaid balance which exceeds one thousand six hundred fifty dollars ($1,650), or

(ii) One percent of the entire unpaid balance; multiplied in either case by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars ($25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars ($25) if the unpaid balance does not exceed one thousand dollars ($1,000), (ii) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000) but does not exceed two thousand dollars ($2,000), or (iii) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(2) The holder of the contract shall not charge, collect, or receive a finance charge which exceeds the disclosed finance charge, except to the extent (A) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (C) permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract

an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(4) When a contract provides for unequal or irregular payments, or payments on other than a monthly basis, the maximum finance charge shall be at the effective rate provided for in paragraph (1), having due regard for the schedule of installments.

(k) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the delinquent installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge unless the charge is permitted by Section 2982.3. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(*l*) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, including any additional finance charge imposed pursuant to Section 2982.8 or other additional charge imposed because the contract has been extended, deferred, or refinanced, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred, or refinanced, as so extended, deferred, or refinanced. Where the amount of the refund credit is less than one dollar ($1), no refund credit need be made by the holder. Any refund credit may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided

further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (j), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (k) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(m) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time that disclosure is made, except that permitted by paragraph (2) of subdivision (c) of Section 226.18 of Regulation Z, provided that all of the requirements and limitations set forth in subdivision (a) of this section are satisfied. Nothing in this chapter prohibits the disclosure in that contract of additional information required or permitted under Regulation Z, as in effect at the time that disclosure is made.

(n) If the seller imposes a fee for document preparation, the contract shall contain a disclosure that the fee is not a governmental fee.

(o) No seller may impose an application fee for a transaction governed by this chapter.

(p) The seller or holder may charge and collect a five-dollar ($5) fee for the return by a depository institution of a dishonored check, negotiated order of withdrawal, or share draft issued in connection with the contract, if the contract so provides or if the contract contains a generalized statement that the buyer may be liable for collection costs incurred in connection with the contract.

SEC. 2. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure the insurance, any amounts advanced by the holder to procure the insurance may be the subject of finance charges from the date of advance as provided in subdivision (e).

(b) These amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay those amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) If offered by the holder, full amortization after the term of the conditional sale contract, to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract.

(4) If offered by the holder, a combination of the methods described in paragraphs (2) and (3), so that there is some amortization during the term of the insurance, with the remainder of the amortization being accomplished after the term of the conditional sale contract, to be payable in installments which do not exceed the average payment allocable to a monthly period under the original terms of the contract.

(5) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to paragraph (2) or, if offered by the holder as an option to the buyer, paragraph (3) or (4).

(c) The written notification described in subdivision (b) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

In addition, the notice shall contain a statement in contrasting red print in at least 8-point bold type, which reads as follows:

"WARNING—IT IS YOUR RESPONSIBILITY UNDER CALIFORNIA LAW TO OBTAIN LIABILITY INSURANCE OR BE SUBJECT TO PENALTIES FOR VIOLATING SECTION 16020 OF THE VEHICLE CODE, WHICH MAY INCLUDE LOSS OF LICENSE OR A FINE. THE INSURANCE ACQUIRED BY THE LIENHOLDER DOES NOT PROVIDE LIABILITY COVERAGE AND DOES NOT SATISFY YOUR RESPONSIBILITY UNDER

CALIFORNIA LAW."

(d) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (e) and shall be secured as provided in the contract and permitted by Section 2984.2.

(e) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to Section 2982.

SEC. 3. Section 2983.2 of the Civil Code is amended to read:

2983.2. (a) Except where the motor vehicle has been seized as described in paragraph (6) of subdivision (b) of Section 2983.3, any provision in any conditional sale contract for the sale of a motor vehicle to the contrary notwithstanding, at least 15 days' written notice of intent to dispose of a repossessed or surrendered motor vehicle shall be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. If those persons are married to each other, and, according to the most recent records of the seller or holder of the contract, reside at the same address, one notice addressed to both persons at that address is sufficient. Except as otherwise provided in Section 2983.8, those persons shall be liable for any deficiency after disposition of the repossessed or surrendered motor vehicle only if the notice prescribed by this section is given within 60 days of repossession or surrender and does all of the following:

(1) Sets forth that those persons shall have a right to redeem the motor vehicle by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice and provides an itemization of the contract balance and of any deliquency, collection or repossession costs and fees and sets forth the computation or estimate of the amount of any credit for unearned finance charges or canceled insurance as of the date of the notice.

(2) States either that there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice and all the conditions precedent thereto or that there is no right of reinstatement and provides a statement of reasons therefor.

(3) States that, upon written request, the seller or holder shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and

reinstatement periods. The seller or holder shall provide the proper form for applying for the extensions with the substance of the form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the seller or holder and received before the expiration of the initial redemption and reinstatement periods.

(4) Discloses the place at which the motor vehicle will be returned to those persons upon redemption or reinstatement.

(5) Designates the name and address of the person or office to whom payment shall be made.

(6) States the seller's or holder's intent to dispose of the motor vehicle upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the seller or holder shall without further notice extend the period accordingly.

(7) Informs such persons that upon written request, the seller or holder shall furnish a written accounting regarding the disposition of the motor vehicle as provided for in subdivision (b). The seller or holder shall advise them that such request must be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the seller or holder.

(8) Includes notice, in at least 10-point bold type if the notice is printed, reading as follows: "NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE."

(b) Unless automatically provided to the buyer within 45 days after the disposition of the motor vehicle, the seller or holder shall provide to any person liable on the contract within 45 days after their written request, if the request is made within one year after the disposition, a written accounting regarding the disposition. The accounting shall itemize:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for and conducting the sale and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the seller or holder in retaking the vehicle from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate lien or encumbrance on the motor vehicle if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the seller or holder, the holder of a

subordinate lien or encumbrance must seasonably furnish reasonable proof of its interest, and unless it does so, the seller or holder need not comply with its demand.

(c) In all sales which result in a surplus, the seller or holder shall furnish an accounting as provided in subdivision (b) whether or not requested by the buyer. Any surplus shall be returned to the buyer within 45 days after the sale is conducted.

(d) This section shall not apply to a loan made by a lender licensed under Division 9 (commencing with Section 22000) or Division 10 (commencing with Section 24000) of the Financial Code.

SEC. 4. Section 3068 of the Civil Code is amended to read:

3068. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under the Vehicle Code, subject to the limitations set forth in this chapter. The lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner.

(b) (1) Any lien under this section which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale shall be conducted unless either of the following occurs:

(A) The lienholder applies for an authorization to conduct a lien sale within 30 days after the lien has arisen.

(B) An action in court is filed within 30 days after the lien has arisen.

(2) A person whose lien for work or services on a vehicle has been extinguished shall turn over possession of the vehicle, at the place where the work or services were performed, to the legal owner or the lessor upon demand of the legal owner or lessor, and upon tender by the legal owner or lessor, by cashier's check or in cash, of only the amount for storage, safekeeping, or parking space rental for the vehicle to which the person is entitled by subdivision (c).

(c) That portion of the lien in excess of seven hundred fifty dollars ($750) for any work or services, or that amount in excess of four hundred dollars ($400) for any storage, safekeeping, or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, in excess of five hundred dollars ($500) for any storage or safekeeping, rendered or performed at the request of any person other than the legal owner or lessor, is invalid, unless prior to commencing any work, services, storage, safekeeping, or rental of parking space, the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the written consent of that legal owner is obtained before any work, services, storage, safekeeping, or rental

of parking space are performed. In any action brought by or on behalf of the legal owner or lessor to recover a vehicle alleged to be wrongfully withheld by the person claiming a lien pursuant to this section, the prevailing party shall be entitled to reasonable attorney's fees and costs, not to exceed one thousand two hundred fifty dollars ($1,250). If any portion of a lien includes charges for the care, storage, or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien which accrued after the expiration of that period is invalid unless the provisions of Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

SEC. 5. Section 10652.5 of the Vehicle Code is amended to read:

10652.5. (a) Whenever the name and address of the legal owner of a motor vehicle is known, or may be ascertained from the registration records in the vehicle or from the records of the Department of Motor Vehicles, no fee or service charge may be imposed upon the legal owner for the parking and storage of the motor vehicle for the period commencing with the 16th day of possession and continuing until written notice by certified mail with return receipt requested is sent to the legal owner by the person in possession of the motor vehicle.

(b) The costs of notifying the legal owner may be charged as part of the storage fee when the motor vehicle has been stored for an indefinite period of time and notice is given no sooner than the third day of possession. This subdivision also applies if the legal owner refuses to claim possession of the motor vehicle.

(c) This section is not applicable to any motor vehicle stored by a levying officer acting under the authority of judicial process.

CHAPTER 1093

An act to add Sections 214.5, 1041, 1077, 2117, 3510.6, 3555, 3810, 5110.5, 5140, 5320, 5362, 5387 and 5420 to the Public Utilities Code, relating to carriers.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 214.5 is added to the Public Utilities Code, to read:

214.5. With respect to a motor vehicle used in the transportation of passengers or property for compensation by a highway common carrier, cement carrier, or passenger stage corporation, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or

rental agreement.

SEC. 2. Section 1041 is added to the Public Utilities Code, to read:

1041. It is unlawful for the owner of a passenger stage employing or otherwise directing the driver of the passenger stage to permit the operation of the passenger stage upon any public highway for compensation without first having obtained from the commission a certificate pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 1038.5 or the accident liability protection requirements of Section 1040.

SEC. 3. Section 1077 is added to the Public Utilities Code, to read:

1077. It is unlawful for the owner of a highway common carrier or cement carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a certificate pursuant to this chapter or without first having complied with the vehicle identification requirements or the accident liability protection requirements of the commission.

SEC. 4. Section 2117 is added to the Public Utilities Code, to read:

2117. (a) Whenever a written notice to appear has been mailed to the owner of a highway common carrier or cement carrier motor vehicle or passenger stage, an exact and legible duplicate copy of the notice, when filed with the magistrate in lieu of a verified complaint, is a complaint to which the defendant may plead guilty.

(b) If, however, the defendant fails to appear, does not deposit bail, or pleads other than guilty to the offense charged, a complaint shall be filed which conforms to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code and which shall be deemed to be an original complaint, and thereafter the proceeding shall be held as provided by law, except that the defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

SEC. 5. Section 3510.6 is added to the Public Utilities Code, to read:

3510.6. With respect to a motor vehicle used in the transportation of property for compensation by a highway permit carrier, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

SEC. 6. Section 3555 is added to the Public Utilities Code, to read:

3555. It is unlawful for the owner of a highway permit carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a permit pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 3543 or with the accident liability protection requirements of Section 3631.

SEC. 7. Section 3810 is added to the Public Utilities Code, to read:

3810. Whenever a written notice to appear has been mailed to the owner of a highway permit carrier motor vehicle, an exact and legible duplicate copy of the notice, when filed with the magistrate in lieu of a verified complaint, is a complaint to which the defendant may plead guilty.

If, however, the defendant fails to appear, does not deposit bail, or pleads other than guilty to the offense charged, a complaint shall be filed which conforms to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code and which shall be deemed to be an original complaint, and thereafter the proceeding shall be held as provided by law, except that the defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

SEC. 8. Section 5110.5 is added to the Public Utilities Code, to read:

5110.5. With respect to a motor vehicle used in the transportation of property for compensation by a household goods carrier, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

SEC. 9. Section 5140 is added to the Public Utilities Code, to read:

5140. It is unlawful for the owner of a household goods carrier motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a permit pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 5132 or with the accident liability protection requirements of Section 5161.

SEC. 10. Section 5320 is added to the Public Utilities Code, to read:

5320. Whenever a written notice to appear has been mailed to the owner of a household goods carrier motor vehicle, an exact and legible duplicate copy of the notice, when filed with the magistrate in lieu of a verified complaint, is a complaint to which the defendant may plead guilty.

If, however, the defendant fails to appear, does not deposit bail, or pleads other than guilty to the offense charged, a complaint shall be filed which conforms to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code and which shall be deemed to be an original complaint, and thereafter the proceeding shall be held as provided by law, except that the defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

SEC. 11. Section 5362 is added to the Public Utilities Code, to read:

5362. With respect to a motor vehicle used in the transportation of persons for compensation by a charter-party carrier of passengers, "owner" means the corporation or person who is registered with the Department of Motor Vehicles as the owner of the vehicle, or who has a legal right to possession of the vehicle pursuant to a lease or rental agreement.

SEC. 12. Section 5387 is added to the Public Utilities Code, to read:

5387. It is unlawful for the owner of a charter-party carrier of passengers motor vehicle employing or otherwise directing the driver of the vehicle to permit the operation of the vehicle upon any public highway for compensation without first having obtained from the commission a certificate or permit pursuant to this chapter or without first having complied with the vehicle identification requirements of Section 5385 or with the accident liability protection requirements of Section 5391.

SEC. 13. Section 5420 is added to the Public Utilities Code, to read:

5420. Whenever a written notice to appear has been mailed to the owner of a charter-party carrier of passengers motor vehicle, an exact and legible duplicate copy of the notice, when filed with the magistrate in lieu of a verified complaint, is a complaint to which the defendant may plead guilty.

If, however, the defendant fails to appear, does not deposit bail, or pleads other than guilty to the offense charged, a complaint shall be filed which conforms to Chapter 2 (commencing with Section 948) of Title 5 of Part 2 of the Penal Code and which shall be deemed to be an original complaint, and thereafter the proceeding shall be held as provided by law, except that the defendant may, by an agreement in writing, subscribed by the defendant and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1094

An act to amend an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith" approved by the electors November 7, 1922, by amending Sections 12 and 15 thereof, relating to the practice of chiropractic, the amendment to take effect upon the approval thereof by the electors, and providing for the submission thereof to the electors pursuant to subdivision (c) of Section 10 of Article II of the California Constitution

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 12 of the act cited in the title is amended to read:

Sec. 12. Licenses issued under the provisions of this section expire at 12 midnight on the last day of the month of birth of licentiates of the board.

On or before July 1, 1991, the board shall establish regulations for the administration of a birth month renewal program. Each person practicing chiropractic within this state shall, on or before the last day of their month of birth of each year, after a license is issued to them as herein provided, pay to the Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars ($150) as determined by the board. The secretary shall mail to all licensed chiropractors in this state, on or before 60 days prior to the last day of the month of their birth each year, a notice that the renewal fee will be due on or before the last day of the month of their birth next following. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect or refusal of any person holding a license or certificate to practice under this act in the State of California to pay the annual fee during the time their license remains in force shall, after a period of 60 days from the last day of the month of their birth automatically work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that a licentiate who fails, refuses or neglects to pay the annual tax within a period of 60 days after the last day of the month of his or her birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

SEC. 2. Section 15 of the act cited in the title is amended to read:

Sec. 15. Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell or fraudulently obtain a license to practice chiropractic, whether recorded or not, or who shall use the title "chiropractor" or "D.C." or any word or title to induce, or tending to induce belief that he or she is engaged in the practice of chiropractic, without first complying with the provisions of this act; or any licensee under this act who uses the word "doctor" or the prefix "Dr." without the word "chiropractor," or "D.C." immediately following his or her name, or the use of the letters "M.D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the word "osteopath," or the letters "D.O." or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he or she held no license from the State of California, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) and not more than seven hundred fifty dollars ($750), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

SEC. 3. Sections 1 and 2 of this act shall become effective only when submitted to and approved by the electors, pursuant to subdivision (c) of Section 10 of Article II of the California Constitution.

SEC. 4. Sections 1 and 2 of this act shall be submitted to the electors at the next statewide election occurring at least 131 days after this act is adopted in the same manner as measures submitted to the voters by the Legislature, as provided in the Elections Code and Government Code.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1095

An act to amend Section 7184 of, and to repeal and add Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of, the Health and Safety Code, and to amend Sections 12811 and 13005 of the Vehicle Code, relating to the Uniform Anatomical Gift Act.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code is repealed.

SEC. 2. Chapter 3.5 (commencing with Section 7150) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 3.5. UNIFORM ANATOMICAL GIFT ACT

7150. This chapter may be cited as the "Uniform Anatomical Gift Act."

7150.1. As used in this chapter:

(a) "Anatomical gift" means a donation of all or part of a human body or a pacemaker to take effect upon or after death.

(b) "Decedent" means a deceased individual and includes a stillborn infant or fetus.

(c) "Document of gift" means a card, a statement attached to or imprinted on a motor vehicle operator's or chauffeur's license, a will, or other writing used to make an anatomical gift.

(d) "Donor" means an individual who makes an anatomical gift of all or part of the individual's body or a pacemaker.

(e) "Enucleator" means an individual who removes or processes eyes or parts of eyes.

(f) "Hospital" means a facility licensed, accredited, or approved as a hospital under the law of any state or a facility operated as a hospital by the United States government, a state, or a subdivision of a state.

(g) "Part" means an organ, tissue, eye, bone, artery, blood, fluid, or other portion of a human body or a pacemaker.

(h) "Person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision or agency, or any other legal or commercial entity.

(i) "Physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state.

(j) "Procurement organization" means a person licensed, accredited, or approved under the laws of any state or by the State Department of Health Services for procurement, distribution, or storage of human bodies or parts.

(k) "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(*l*) "Technician" means an individual who has completed training in removal of parts for transplant, therapeutic, or scientific purposes, which the donee determines to be adequate for the purpose.

7150.5. (a) An individual who is at least 18 years of age may make an anatomical gift for any of the purposes stated in subdivision (a) of Section 7153, limit an anatomical gift to one or more of those

purposes, or refuse to make an anatomical gift.

(b) An anatomical gift may be made only by a document of gift signed by the donor. If the donor cannot sign, the document of gift must be signed by another individual and by two witnesses, all of whom have signed at the direction and in the presence of the donor and of each other, and state that it has been so signed.

(c) If a document of gift is attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, the document of gift must comply with subdivision (b). Revocation, suspension, expiration, or cancellation of the license does not invalidate the anatomical gift.

(d) A document of gift may designate a particular physician or surgeon to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the anatomical gift may employ or authorize any physician, surgeon, technician, or enucleator to carry out the appropriate procedures.

(e) An anatomical gift by will takes effect upon death of the testator, whether or not the will is probated. If, after death, the will is declared invalid for testamentary purposes, the validity of the anatomical gift is unaffected.

(f) A donor may amend or revoke an anatomical gift, not made by will, only by one or more of the following:

(1) A signed statement.

(2) An oral statement made in the presence of two individuals.

(3) Any form of communication during a terminal illness or injury addressed to a physician or surgeon.

(4) The delivery of a signed statement to a specified donee to whom a document of gift had been delivered.

(g) The donor of an anatomical gift made by will may amend or revoke the gift in the manner provided for amendment or revocation of wills, or as provided in subdivision (f).

(h) An anatomical gift that is not revoked by the donor before death is irrevocable and does not require the consent or concurrence of any person after the donor's death.

(i) An individual may refuse to make an anatomical gift of the individual's body or part by a writing signed in the same manner as a document of gift, a statement attached to or imprinted on a donor's motor vehicle operator's or chauffeur's license, or any other writing used to identify the individual as refusing to make an anatomical gift. During a terminal illness or injury, the refusal may be an oral statement or other form of communication.

(j) In the absence of contrary indications by the donor, an anatomical gift of a part is neither a refusal to give other parts nor a limitation on an anatomical gift under Section 7151 or on a removal or release of other parts under Section 7151.5.

(k) In the absence of contrary indications by the donor, a revocation or amendment of an anatomical gift is not a refusal to make another anatomical gift. If the donor intends a revocation to be

a refusal to make an anatomical gift, the donor shall make the refusal pursuant to subdivision (i).

7151. (a) Except as provided in Section 7152, any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or part of the decedent's body or a pacemaker for an authorized purpose, unless the decedent, at the time of death, has made an unrevoked refusal to make that anatomical gift:

(1) The attorney-in-fact under a valid durable power of attorney that expressly authorizes the attorney-in-fact to make an anatomical gift of all or part of the principal's body or a pacemaker.

(2) The spouse of the decedent.

(3) An adult son or daughter of the decedent.

(4) Either parent of the decedent.

(5) An adult brother or sister of the decedent.

(6) A grandparent of the decedent.

(7) A guardian or conservator of the person of the decedent at the time of death.

(b) An anatomical gift may not be made by a person listed in subdivision (a) if any of the following occur:

(1) A person in a prior class is available at the time of death to make an anatomical gift.

(2) The person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent.

(3) The person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under subdivision (a) shall be made by a document of gift signed by the person or the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under subdivision (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physican, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make an anatomical gift under subdivision (a) is not an objection to the making of an anatomical gift.

7151.5. (a) Except as provided in Section 7152, the coroner or medical examiner may release and permit the removal of a part from a body within that official's custody, for transplantation, therapy, or reconditioning, if all of the following occur:

(1) The official has received a request for the part from a hospital, physician, surgeon, or procurement organization or, in the case of a pacemaker, from a person who reconditions pacemakers.

(2) A reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to making, an anatomical gift. Except in the case of

corneal material to be used for the purpose of transplantation or where the useful life of the part does not permit, a reasonable effort shall be deemed to have been made when a search for the persons has been underway for at least 24 hours.

(3) The official does not know of a refusal or contrary indication by the decedent or objection by a person having priority to act as listed in subdivision (a) of Section 7151.

(4) The removal will be by a physician, surgeon, or technician; but in the case of eyes, by one of them or by an enucleator.

(5) The removal will not interfere with any autopsy or investigation.

(6) The removal will be in accordance with accepted medical standards.

(7) Cosmetic restoration will be done, if appropriate.

(b) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner, a hospital may release and permit the removal of a part from a body if the hospital, after a reasonable effort has been made to locate and inform persons listed in subdivision (a) of Section 7151 of their option to make, or object to the making, an anatomical gift, determines and certifies that the persons are not available. A search for the persons listed in subdivision (a) of Section 7151 may be initiated in anticipation of death, but, except in the case of corneal material to be used for the purpose of transplantation or where the useful life of the part does not permit, the determination may not be made until the search has been underway for at least 24 hours. The search shall include a check of local police missing persons records, examination of personal effects, and the questioning of any persons visiting the decedent before his or her death or in the hospital, accompanying the decedent's body, or reporting the death, in order to obtain information that might lead to the location of any persons listed in subdivison (a) of Section 7151.

(c) Except as provided in Section 7152, if the body is not within the custody of the coroner or medical examiner or a hospital, the local public health officer may release and permit the removal of any part from a body in the local public health officer's custody for transplantation, therapy, or reconditioning if the requirements of subdivision (a) are met.

(d) An official or hospital releasing and permitting the removal of a part shall maintain a permanent record of the name of the decedent, the person making the request, the date and purpose of the request, the part requested, and the person to whom it was released.

7152. Only an individual may make an anatomical gift of all or part of the individual's body or a pacemaker, if it is made known that the individual at the time of death was a member of a religion, church, sect, or denomination which relies solely upon prayer for the healing of disease or which has religious tenets that would be violated by the disposition of the human body or parts thereof or a pacemaker

for any of the purposes stated in subdivision (a) of Section 7153.

7152.5. (a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital shall comply with the protocol developed pursuant to Section 7184.

(b) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) A law enforcement officer finding an individual who the officer believes is dead or near death.

(2) A hospital, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(c) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by paragraph (1) of subdivision (b), and the individual or body to whom it relates is taken to a hospital, the hospital shall be notified of the contents and the document or other evidence shall be sent to the hospital.

(d) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made pursuant to subdivision (a) of Section 7151 or a release and removal of a part has been permitted pursuant to Section 7151.5, or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify the donee if one is named and known to the hospital; if not, it shall notify an appropriate procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(e) A person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

7153. (a) The following persons may become donees of anatomical gifts for the purposes stated:

(1) A hospital, physician, surgeon, or procurement organization, for transplantation, therapy, medical or dental education, research, or advancement of medical or dental science.

(2) An accredited medical or dental school, college, or university for education, research, or advancement of medical or dental science.

(3) A designated individual for transplantation or therapy needed by that individual.

(4) In the case of a pacemaker, a person who reconditions pacemakers.

(b) An anatomical gift may be made to a designated donee or without designating a donee. If a donee is not designated or if the donee is not available or rejects the anatomical gift, the anatomical gift may be accepted by any hospital or, in the case of a pacemaker, the pacemaker may be accepted by any person who reconditions pacemakers.

(c) If the donee knows of the decedent's refusal or contrary

indications to make an anatomical gift or that an anatomical gift by a member of a class having priority to act is opposed by a member of the same class or a prior class under subdivision (a) of Section 7151, the donee may not accept the anatomical gift.

7153.5. (a) Delivery of a document of gift during the donor's lifetime is not required for the validity of an anatomical gift.

(b) If an anatomical gift is made to a designated donee, the document of gift, or a copy, may be delivered to the donee to expedite the appropriate procedures after death. The document of gift, or a copy, may be deposited in any hospital, procurement organization, or registry office that accepts it for safekeeping or for facilitation of procedures after death. On request of an interested person, upon or after the donor's death, the person in possession shall allow the interested person to examine or copy the document of gift.

7154. (a) Rights of a donee created by an anatomical gift are superior to rights of others except with respect to autopsies under subdivision (b) of Section 7155.5. A donee may accept or reject an anatomical gift. If a donee accepts an anatomical gift of an entire body, the donee, subject to the terms of the gift, may allow embalming and use of the body in funeral services. If the gift is of a part of a body or a pacemaker, the donee, upon the death of the donor and before embalming, shall cause the part or pacemaker to be removed without unnecessary mutilation. After removal of the part or pacemaker, custody of the remainder of the body vests in the person specified in Section 7100.

(b) The time of death must be determined by a physician or surgeon who attends the donor at death or, if none, the physician or surgeon who certifies the death. Neither the physician or surgeon who attends the donor at death nor the physician or surgeon who determines the time of death may participate in the procedures for removing or transplanting a part unless the document of gift designates a particular physician or surgeon pursuant to subdivision (d) of Section 7150.5.

(c) If there has been an anatomical gift, a technician may remove any donated parts and an enucleator may remove any donated eyes or parts of eyes, after determination of death by a physician or surgeon.

7154.5. Each hospital in this state, after consultation with other hospitals and procurement organizations, shall establish agreements or affiliations for coordination of procurement and use of human bodies and parts.

7155. (a) A person may not knowingly, for valuable consideration, purchase or sell a part for transplantation, therapy, or reconditioning, if removal of the part is intended to occur after the death of the decedent.

(b) Valuable consideration does not include reasonable payment for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of a part.

(c) A person who violates this section is guilty of a felony and upon

conviction shall be punished by imprisonment in the state prison for three, five, or seven years, a fine not exceeding fifty thousand dollars ($50,000), or both.

7155.5. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of this chapter are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to Section 7150.5 or 7151 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

7156. This chapter applies to a document of gift, revocation, or refusal to make an anatomical gift signed by the donor or a person authorized to make or object to making an anatomical gift before, on, or after January 1, 1989.

7156.5. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

SEC. 3. Section 7184 of the Health and Safety Code is amended to read:

7184. Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

SEC. 3.5. Section 7184 of the Health and Safety Code is amended to read:

7184. (a) Each general acute care hospital shall develop a protocol for identifying potential organ and tissue donors. The protocol shall require that any deceased individual's next of kin or other individual, as set forth in Section 7151, at or near the time of notification of death be asked whether the deceased was an organ donor or if the family is a donor family. If not, the family shall be informed of the option to donate organs and tissues pursuant to Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7. With the approval of the designated next of kin or other individual, as set forth in Section 7151, the hospital shall then notify an organ and tissue procurement organization and cooperate in the procurement of the anatomical gift or gifts. The protocol shall encourage reasonable discretion and sensitivity to the family circumstances in all discussions regarding donations of tissue or organs. The protocol may take into account the deceased individual's religious beliefs or obvious nonsuitability for organ and tissue donation. In the event an organ and tissue procurement organization does not exist in a region, the hospital shall contact an organ or a tissue procurement organization, as appropriate. Laws pertaining to notification of the coroner shall be complied with in all cases of reportable deaths.

(b) A general acute care hospital shall comply with subdivision (a) as a condition of participation in the Medi-Cal program contained in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 4. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(b) With every driver's license issued on and after July 1, 1985, the department shall provide a sticker for the licensee to place on the front of the license. The department shall also provide a form which may be affixed to the back of the license by which the licensee may indicate his or her willingness and intent to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5

(commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the licensee. If the licensee cannot sign, the statement may be signed for the licensee at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 5. Section 12811 of the Vehicle Code is amended to read:

12811. (a) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall bear thereon the distinguishing number assigned to the applicant, the date of expiration, the name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

Each license shall also contain a space for the endorsement thereon of a record of each suspension or revocation thereof.

The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(b) With every driver's license issued on and after July 1, 1985, the department shall provide a sticker for the licensee to place on the front of the license. The department shall also provide a form which may be affixed to the back of the license by which the licensee may indicate his or her willingness and intent to make an anatomical gift or his or her refusal to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code and the date that a pacemaker has been implanted. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the licensee. If the licensee cannot sign, the statement may be signed for the licensee at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the licensee.

(c) No public entity or employee is liable for any loss, detriment, or injury resulting directly or indirectly from false or inaccurate

information contained in the sticker provided pursuant to subdivision (b).

(d) No contract shall be let to any nongovernmental entity for the processing of drivers' licenses, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 6. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) With every identification card issued on and after July 1, 1985, the department shall provide a sticker for the cardholder to place on the front of the identification card and a form which may be affixed to the back of the identification card, by which the cardholder may indicate his or her willingness and intent to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the holder of the card. If the holder of the card cannot sign, the statement may be signed for the cardholder at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the holder of the card.

(c) No contract shall be let to any nongovernmental entity for the processing of identification cards, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 7. Section 13005 of the Vehicle Code is amended to read:

13005. (a) The identification card shall resemble in appearance, so far as is practicable, a driver's license issued pursuant to this code. It shall adequately describe the applicant, bear his or her picture, and be produced in color or engraved by a process or processes that prohibit as near as possible, the ability to alter or reproduce the identification card, or prohibit the ability to superimpose a picture or photograph on the identification card without ready detection.

(b) With every identification card issued on and after July 1, 1985, the department shall provide a sticker for the cardholder to place on the front of the identification card and a form which may be affixed to the back of the identification card, by which the cardholder may indicate his or her willingness and intent to make an anatomical gift or his or her refusal to make an anatomical gift pursuant to Section 7150.5 of the Health and Safety Code and the date the pacemaker has been implanted. The form provided shall contain a statement sufficient in its terms to meet the requirements of the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150)

of Part 1 of Division 7 of the Health and Safety Code). To be effective, the statement shall be signed by the holder of the card. If the holder of the card cannot sign, the statement may be signed for the cardholder at his or her direction and in his or her presence in the presence of two witnesses who shall sign the statement in his or her presence. The gift shall become effective upon the death of the holder of the card.

(c) No contract shall be let to any nongovernmental entity for the processing of identification cards, unless the department receives two or more qualified bids from independent, responsible bidders.

SEC. 8. Section 7155.5 is added to the Health and Safety Code, to read:

7155.5. (a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended. All donors shall be screened for infectious diseases, including human immunodeficiency virus (HIV) antibody testing, pursuant to regulations adopted by the State Department of Health Services.

(b) The provisions of this chapter are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with this chapter or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to Section 7150.5 or 7151 and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

SEC. 9. Sections 4 and 6 of this act shall become inoperative on July 1, 1989. Sections 5 and 7 of this act shall become operative on July 1, 1989.

SEC. 10. Section 3.5 of this bill incorporates amendments to Section 7184 of the Health and Safety Code proposed by both this bill and AB 2961. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 7184 of the Health and Safety Code, and (3) this bill is enacted after AB 2961, in which case Section 3 of this bill shall not become operative.

SEC. 11. Section 8 of this bill shall only become operative if (1) both this bill and SB 2576 are enacted and become effective on January 1, 1989, and (2) this bill is enacted after SB 2576, in which case Section 7155.5 of the Health and Safety Code, as added by Section 2 of this act, shall not become operative.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the

definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1096

An act to amend Section 1624 of the Civil Code, relating to contracts.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1624 of the Civil Code is amended to read:

1624. The following contracts are invalid, unless they, or some note or memorandum thereof, are in writing and subscribed by the party to be charged or by the party's agent:

(a) An agreement that by its terms is not to be performed within a year from the making thereof.

(b) A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in Section 2794.

(c) An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; such an agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged.

(d) An agreement authorizing or employing an agent, broker, or any other person to purchase or sell real estate, or to lease real estate for a longer period than one year, or to procure, introduce, or find a purchaser or seller of real estate or a lessee or lessor of real estate where the lease is for a longer period than one year, for compensation or a commission.

(e) An agreement which by its terms is not to be performed during the lifetime of the promisor.

(f) An agreement by a purchaser of real property to pay an indebtedness secured by a mortgage or deed of trust upon the property purchased, unless assumption of the indebtedness by the purchaser is specifically provided for in the conveyance of the

property.

(g) A contract, promise, undertaking, or commitment to loan money or to grant or extend credit, in an amount greater than one hundred thousand dollars ($100,000), not primarily for personal, family, or household purposes, made by a person engaged in the business of lending or arranging for the lending of money or extending credit. For purposes of this section, a contract, promise, undertaking or commitment to loan money secured solely by residential property consisting of one to four dwelling units shall be deemed to be for personal, family, or household purposes.

SEC. 1.5. Section 1624 of the Civil Code is amended to read:

1624. The following contracts are invalid, unless they, or some note or memorandum thereof, are in writing and subscribed by the party to be charged or by the party's agent:

(a) An agreement that by its terms is not to be performed within a year from the making thereof.

(b) A special promise to answer for the debt, default, or miscarriage of another, except in the cases provided for in Section 2794.

(c) An agreement for the leasing for a longer period than one year, or for the sale of real property, or of an interest therein; such an agreement, if made by an agent of the party sought to be charged, is invalid, unless the authority of the agent is in writing, subscribed by the party sought to be charged.

(d) An agreement authorizing or employing an agent, broker, or any other person to purchase or sell real estate, or to lease real estate for a longer period than one year, or to procure, introduce, or find a purchaser or seller of real estate or a lessee or lessor of real estate where the lease is for a longer period than one year, for compensation or a commission.

(e) An agreement which by its terms is not to be performed during the lifetime of the promisor.

(f) An agreement by a purchaser of real property to pay an indebtedness secured by a mortgage or deed of trust upon the property purchased, unless assumption of the indebtedness by the purchaser is specifically provided for in the conveyance of the property.

(g) A contract, promise, undertaking, or commitment to loan money or to grant or extend credit, in an amount greater than one hundred thousand dollars ($100,000), not primarily for personal, family, or household purposes, made by a person engaged in the business of lending or arranging for the lending of money or extending credit. For purposes of this section, a contract, promise, undertaking or commitment to loan money secured solely by residential property consisting of one to four dwelling units shall be deemed to be for personal, family, or household purposes.

This section does not apply to leases subject to Division 10 (commencing with Section 10101) of the Commercial Code.

SEC. 2. Section 1.5 of this bill incorporates amendments to

Section 1624 of the Civil Code proposed by both this bill and SB 2492. It shall be operative at the same time SB 2492 becomes operative if (1) both this bill and SB 2492 are enacted and become effective on January 1, 1989, (2) this bill and SB 2492 both amend Section 1624 of the Civil Code, and (3) this bill is enacted after SB 2492, in which case Section 1 of this bill shall only be operative until SB 2492 becomes operative.

SEC. 3. It is the intent of the Legislature that subdivision (g) of Section 1624 of the Civil Code shall only apply prospectively to any claim or cause of action arising on or after January 1, 1989, and not otherwise affect any statutory or common law rights in a civil action.

It is also the intent of the Legislature that judicially and legislatively recognized defenses and exceptions to the application of subdivisions (a) to (f), inclusive, of Section 1624 also apply to subdivision (g) of Section 1624.

CHAPTER 1097

An act to add Article 7 (commencing with Section 1860) to Chapter 7 of Part 1 of Division 1 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Article 7 (commencing with Section 1860) is added to Chapter 7 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 7. Additional Remedies

1860. (a) For the purpose of collecting delinquent contributions, interest, and penalties, the director may enter into an agreement with one or more private persons, companies, associations, or corporations providing debt collection services outside this state with respect to the collection of delinquent contributions, interest, and penalties. That agreement may provide, at the discretion of the director, the rate of payment and the manner in which compensation for services shall be paid. The compensation, fees, and expenses may be added to the amount of the delinquent contributions, interest, and penalties and may be collected by the contractor from the debtor. The director shall provide the necessary information for the contractor to fulfill its obligation under the agreement.

(b) At the discretion of the director, the contractor may, as part of the collection process, refer the debt to legal representatives for

litigation in the name of the director.

(c) No action taken by the director, pursuant to this section, shall be construed to be an election to forego other collection procedures in this division.

CHAPTER 1098

An act to amend Sections 1524, 1536, 1569.19, 1597.61, and 1596.858 of the Health and Safety Code, relating to care facilities.

[Approved by Governor September 20, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1524 of the Health and Safety Code is amended to read:

1524. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when such transfer of stock does not constitute a majority change of ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that such facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies and a family member desires to continue operation of the facility, the State Department of Social Services shall issue a "cease and desist" order against the continued operation of the facility only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the residents or if a license held by the facility has been

revoked by the State Department of Social Services within two years preceding the determination of unlicensed operation. The order shall be issued within seven working days after notification of the death of the licensee is received. The family member shall present fingerprints to the Community Care Licensing Division of the State Department of Social Services within 10 working days after the death and shall complete both parts A and B of the licensing packet and submit them within 30 calendar days or be cited as an unlicensed facility.

(f) The licensee abandons the facility.

SEC. 2. Section 1536 of the Health and Safety Code is amended to read:

1536. At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer foster children, and the services for which each facility has been licensed or issued a special permit.

To encourage the recruitment of foster family homes and certified family homes of foster family agencies, protect their personal privacy, and to preserve the security and confidentiality of the placements in the homes, the names, addresses, and other identifying information of facilities licensed as foster family homes and certified family homes of foster family agencies providing 24-hour care for six or fewer children shall be considered personal information for purposes of the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). This information shall not be disclosed by any state or local agency pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) except as necessary for administering the licensing program, facilitating the placement of children in these facilities, and providing names and addresses only to bona fide professional foster parent organizations upon request.

SEC. 3. Section 1569.19 of the Health and Safety Code is amended to read:

1569.19. Each new license or special permit issued pursuant to this chapter shall expire 12 months from the date of its issuance.

A renewal license or special permit may be issued for a period not to exceed two years, provided the licensee has been found not to be in violation of any statutory requirements or rules or regulations, during the preceding license period.

Application for renewal of a license or special permit shall be filed with the state department pursuant to departmental rules and regulations.

A license shall be forfeited by operation of law prior to its expiration date when one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring

of stock when the facility is owned by a corporation and when the transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves a facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for a license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies and a family member desires to continue operation of the facility, the State Department of Social Services shall issue a "cease and desist" order against the continued operation of the facility only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the residents or if a license held by the facility has been revoked by the State Department of Social Services within two years preceding the determination of unlicensed operation. The order shall be issued within seven working days after notification of the death of the licensee is received. The family member shall present fingerprints to the Community Care Licensing Division of the State Department of Social Services within 10 working days after the death and shall complete both parts A and B of the licensing packet and submit them within 30 calendar days or be cited as an unlicensed facility.

(f) The licensee abandons the facility.

SEC. 4. Section 1597.61 of the Health and Safety Code is amended to read:

1597.61. (a) When the department determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for the license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children or if a license held by the facility has been revoked by the department within two years preceding the determination of unlicensed operation. In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for the license, the licensing agency may issue a cease and desist order only if the unlicensed provider does not apply for a license within a reasonable time after the notice.

(b) If an unlicensed family day care home fails to respond to a cease and desist order issued pursuant to subdivision (a), or if the department determines it necessary to protect the immediate health and safety of the children, the licensing agency may bring an action to enjoin such a home from continuing to operate pursuant to Section 1596.89.

(c) The district attorney of a county shall, upon application by the department, institute and conduct the prosecution of any action brought by the licensing agency against an unlicensed family day care home located in that county.

SEC. 5. Section 1596.858 of the Health and Safety Code is amended to read:

1596.858. A license shall be forfeited by operation of law prior to its expiration date when any one of the following occurs:

(a) The licensee sells or otherwise transfers the facility or facility property, except when change of ownership applies to transferring of stock when the facility is owned by a corporation, and when the transfer of stock does not constitute a majority change in ownership.

(b) The licensee surrenders the license to the department.

(c) The licensee moves the facility from one location to another. The department shall develop regulations to ensure that the facilities are not charged a full licensing fee and do not have to complete the entire application process when applying for license for the new location.

(d) The licensee is convicted of an offense specified in Section 220, 243.4, or 264.1, or paragraph (1) of Section 273a, Section 273d, 288, or 289 of the Penal Code, or is convicted of another crime specified in subdivision (c) of Section 667.5 of the Penal Code.

(e) The licensee dies. When a licensee dies and a family member desires to continue operation of the facility, the State Department of Social Services shall issue a "cease and desist" order for the continued operation of the facility only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the residents or if a license held by the facility has been revoked by the State Department of Social Services within two years preceding the determination of unlicensed operation. The order shall be issued within seven working days after notification of the death of the licensee is received. The family member shall present fingerprints to the Community Care Licensing Division of the State Department of Social Services within 10 working days after the death and shall complete both parts A and B of the licensing packet and submit them within 30 calendar days or be cited as an unlicensed facility.

(f) The licensee abandons the facility.

CHAPTER 1099

An act to amend Sections 15000, 15002, and 15004 of the Penal Code, relating to peace officers, and making an appropriation therefor.

[Approved by Governor September 20, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 15000 of the Penal Code is amended to read:

15000. There is in state government the Peace Officers' Memorial Commission, hereinafter referred to as the commission, composed of nine members. Five of the members shall be appointed by the Governor, two shall be appointed by the Speaker of the Assembly, and two shall be appointed by the Senate Committee on Rules. The members of the commission shall elect a chairperson.

Members of the commission shall receive no compensation, but shall receive per diem and expenses while engaged in commission activities.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 2. Section 15002 of the Penal Code is amended to read:

15002. With respect to the design and construction of the memorial, the commission may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the final design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Senate Judiciary Committee biannually on the progress of the memorial.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

SEC. 3. Section 15004 of the Penal Code is amended to read:

15004. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the commission as a loan for purposes of this part. The commission shall reimburse the amount of the appropriation, plus interest at the same rate of interest as that earned by moneys in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under this part.

(b) The Peace Officers' Memorial Account in the General Fund, hereinafter referred to as the account, is hereby established. All funds received by the commission under Sections 15001 and 15002, and subdivision (a) of this section shall be deposited in the account. Notwithstanding Section 13340 of the Government Code, the moneys in the account are hereby appropriated to the commission for purposes of this part without regard to fiscal years.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends that date.

CHAPTER 1100

An act to add Section 10196.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 10196.1 is added to the Insurance Code, to read:

10196.1. Any person who knowingly violates Section 10195 with intent to defraud is guilty of a public offense punishable by imprisonment in the state prison or in a county jail for not exceeding one year or by a fine not exceeding ten thousand dollars ($10,000), or by both imprisonment and a fine.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1101

An act to amend the heading of Part 5 (commencing with Section 8401) of Division 4 of, and to amend Sections 8401, 8402, 8405, 8406, 8407, 8451, 8454, 8457, 8461, 8463, 8465, 8502, 8551, 8552, 8553, 8554, 8555, 8556, 8557, 8563, 8564, 8601, 8602, 8603, 8604, 8605, 8651, 8702, 8703, 8704, 8705, 8707, 8751, and 8756 of, the Food and Agricultural Code, relating to agricultural pests, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that none of the amendments made to the Citrus Pest Control Law (Part 5 (commencing with Section 8401) of Division 4 of the Food and Agricultural Code) by Sections 2 to 36, inclusive, of this act are intended to alter or in any way affect any citrus pest control district organized pursuant to that part.

SEC. 2. The heading of Part 5 (commencing with Section 8401) of Division 4 of the Food and Agricultural Code is amended to read:

PART 5. CITRUS, STONE, AND POME FRUIT PEST DISTRICT CONTROL LAW

SEC. 3. Section 8401 of the Food and Agricultural Code is amended to read:

8401. This part shall be known as the Citrus, Stone, and Pome Fruit Pest District Control Law.

SEC. 4. Section 8402 of the Food and Agricultural Code is amended to read:

8402. It is the purpose of this part to make available a procedure for the organization, operation, government, and dissolution of districts for the more effective control and eradication of citrus, stone, and pome fruit pests, whichever products the district is established to protect.

SEC. 5. Section 8405 of the Food and Agricultural Code is amended to read:

8405. "Citrus, stone, and pome fruit acreage" means any parcel, tract, or lot of land with 25 or more citrus, stone, or pome fruit trees of any age growing on it, except a parcel, tract, or lot which is used as a nursery.

SEC. 6. Section 8406 of the Food and Agricultural Code is amended to read:

8406. "Citrus, stone, and pome fruit pest" includes any infectious, transmissible, or contagious disease, any form of animal life, or any form of vegetable life infesting citrus, stone, or pome fruit trees or citrus fruits.

SEC. 7. Section 8407 of the Food and Agricultural Code is amended to read:

8407. "District" means a citrus, stone, or pome fruit pest control district organized pursuant to this part.

SEC. 8. Section 8451 of the Food and Agricultural Code is amended to read:

8451. Proceedings for the formation of a district within any county shall be commenced by a petition which is signed by the owners of not less than 51 percent by area of the land in the proposed

district within the county devoted exclusively to the growing of citrus, stone, or pome fruits. The petition shall be addressed to, and filed with, the board of supervisors of the county. If the purpose of the proposed district is control of the apple maggot, the petition shall include a copy of the director's declaration issued pursuant to Section 6050.6.

SEC. 9. Section 8454 of the Food and Agricultural Code is amended to read:

8454. (a) The petition shall state the name of the proposed district and shall set forth its boundaries or describe the lands to be included in it.

(b) It is a sufficient designation of the boundaries of a proposed district to recite that all the citrus, stone, or pome fruit acreage in the county is to be included in the district, or that all the citrus, stone, or pome fruit acreage in a designated area within the county is to be included in the district.

(c) If either designation is used, the outside boundary of the area so designated is the boundary of the district and the district shall include all area within the outside boundary, if the district is formed pursuant to this part.

SEC. 10. Section 8457 of the Food and Agricultural Code is amended to read:

8457. The notice of hearing shall do all of the following:

(a) State the name of the district and that it is being formed for the eradication and control of citrus, stone, or pome fruit pests.

(b) State the petition is available for inspection at the office of the clerk of the board of supervisors.

(c) Designate the boundaries of the proposed district in substantially the same way that they are described in the petition.

(d) State the time and place for the hearing.

(e) State that at the hearing protests will be considered by the board of supervisors.

(f) State that requests in writing for the exclusion of lands, from, or the inclusion of lands in, the proposed district will be heard and considered by the board of supervisors.

SEC. 11. Section 8461 of the Food and Agricultural Code is amended to read:

8461. At the hearing, any owner of citrus, stone, or pome fruit acreage in the proposed district may present to the board of supervisors a request in writing for the exclusion of that land or any part of that land from, and any owner of citrus, stone, or pome fruit acreage outside the proposed district may present to the board of supervisors a request in writing for inclusion of the land in, the proposed district.

SEC. 12. Section 8463 of the Food and Agricultural Code is amended to read:

8463. (a) If the board of supervisors determines that the project is feasible and in the interest of the citrus, stone, or pome fruit growers of the county, the board of supervisors shall, by order

entered in its minutes, declare the district duly organized under the name designated in the petition for the formation of the district.

(b) The order shall describe the territory included in the district and, if the board of supervisors does not exclude or include land pursuant to Section 8465, it is a sufficient description of the territory to describe the boundaries in substantially the same way as they are described in the petition. A copy of the order duly certified by the clerk of the board of supervisors shall be filed for record in the office of the county recorder of the county in which the district is situated.

SEC. 13. Section 8465 of the Food and Agricultural Code is amended to read:

8465. (a) In determining the boundaries of the district, the board of supervisors shall exclude from the district any citrus, stone, or pome fruit acreage which it finds will not be benefited by the proposed project, and it may include in the district any lands which it finds will be benefited if it also finds it will be to the interest of the district to include these lands. The inclusion may be upon application of the owner or, without the owner's application, upon giving the owner notice of the proposed inclusion and an opportunity for a hearing on it.

(b) Notice of inclusion shall be mailed, postage prepaid, by the clerk of the board of supervisors, to the address of the owner of the land as shown by the last equalized county assessment roll, and to any person that has filed with the clerk that person's name and address and description of land in which he or she has either a legal or equitable interest. The notice shall describe the land proposed to be included, and shall state the time and place at which objections to the inclusion will be heard.

SEC. 14. Section 8502 of the Food and Agricultural Code is amended to read:

8502. In order to be eligible to hold the office of director of the district, a person shall be a citizen of the United States and of this state, and an owner of lands within the district which are devoted, in whole or in part, to the growing of the product for which the district is established.

SEC. 15. Section 8551 of the Food and Agricultural Code is amended to read:

8551. The district shall have perpetual succession and may do all of the following:

(a) Sue and be sued in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(b) Adopt a seal and alter it at pleasure.

(c) Take by grant, purchase, gift, devise, lease, or otherwise, and hold, use and enjoy, and lease, or otherwise dispose of, real and personal property of every kind and description within or without the district necessary to the full and convenient exercise of its powers.

(d) Cause assessments to be levied, as provided in Chapter 5 (commencing with Section 8601) to pay any obligation of the district

and to accomplish the purposes of the district in the manner provided in this part.

(e) Make contracts, and employ, except as otherwise provided in this part, all persons, firms, and corporations necessary to carry out the purposes and the powers of the district, and at any salary, wage, or other compensation as the board of directors shall determine.

(f) Eradicate, remove, or prevent the spread of any and all citrus, stone, or pome fruit pests.

(g) Enter into or upon any land included within the boundaries of the district for the purpose of inspecting and treating the citrus, stone, or pome fruit trees and other host plants and fruit growing on them.

(h) Perform any and all acts either within or outside the district necessary or proper to fully and completely carry out the purposes for which the district was organized.

SEC. 16. Section 8552 of the Food and Agricultural Code is amended to read:

8552. Every district formed pursuant to this part has all of the powers prescribed by Section 8551 and other sections of this part, including the power to eradicate, remove, or prevent the spread of each and every citrus, stone, or pome fruit pest, regardless of any language in the petition for formation for any district or in any of the proceedings leading to formation which might seem to limit the power of the district to the control or eradication of one or more citrus, stone, or pome fruit pests in particular.

SEC. 17. Section 8553 of the Food and Agricultural Code is amended to read:

8553. (a) A district may pay limited compensation to the owner of any citrus tree infected with citrus tristeza virus, and the owner of any stone or pome fruit tree infected with apple maggot, which is removed by the district or by the owner within 60 days after written notice of the infection to the owner by the district, and prior to March 1, 1990. The limited compensation shall not exceed the following payment schedule, with the age of the tree being conclusively established as of the time written notice of the infection is first given to the owner.

(b) The schedule of payments is as follows:

Age of trees	Maximum payment
1 year	$ 5 per tree
2 years	7.50 per tree
3 years	10 per tree
4 years	14 per tree
5 years	17.50 per tree
6 years	20.75 per tree
7 years or older	25 per tree

(c) For the purposes of this section, the holder of the record title of the real property on which the trees are located shall be

considered to be the owner of the citrus, stone, or pome fruit trees to whom written notice of infection is given.

(d) The written notice referred to in subdivision (a) shall be a written or printed document labeled "Notice of Infection," addressed to the owner and informing the owner of the existence of the infected trees, their location, and that they should be removed forthwith.

(e) For the purposes of determining the age of infected citrus, stone, or pome fruit trees under this section, trees shall be considered one year old as of the January 1st succeeding the calendar year in which they are planted, and shall be deemed one year older on the January 1st of each succeeding year.

SEC. 18. Section 8554 of the Food and Agricultural Code is amended to read:

8554. In order to expedite the elimination of the source of citrus tristeza virus or the apple maggot, if it appears to the board that the cost of testing, indexing, or retesting trees to determine infection may exceed the cost of removal, plus the payment of limited compensation, a district may, with the consent of the owner, remove and pay limited compensation pursuant to Section 8553 for trees which have not been determined to be infected with citrus tristeza virus or the apple maggot.

SEC. 19. Section 8555 of the Food and Agricultural Code is amended to read:

8555. Any payment made to the owner or owners of citrus, stone, or pome fruit trees removed pursuant to Section 8553 or 8554 shall in no event exceed the sum of three thousand dollars ($3,000) per geographical acre.

SEC. 20. Section 8556 of the Food and Agricultural Code is amended to read:

8556. The commissioner of the county in which the district is located shall, upon request of the board and without fee or charge, supervise and direct, in accordance with the best known and accepted methods as determined by the board, all activities undertaken by the district for the control or eradication of citrus, stone, or pome fruit pests.

SEC. 21. Section 8557 of the Food and Agricultural Code is amended to read:

8557. The board shall, immediately after its qualification, formulate an effective plan based on the best known and accepted methods for the control and eradication of the citrus, stone, or pome fruit pests within the district.

SEC. 22. Section 8563 of the Food and Agricultural Code is amended to read:

8563. The notice shall contain all of the following:

(a) A summary of the proposed budget and shall refer to the original on file with the board for further particulars.

(b) State that it is the intention to raise the amount of money required to meet the proposed budget by levying an assessment

upon the assessed value of the citrus, stone, or pome fruit trees within the district in accordance with this part.

(c) A statement of the day, hour, and place, when and where any and all persons interested may appear and object to the adoption of the budget or to any item in it.

SEC. 23. Section 8564 of the Food and Agricultural Code is amended to read:

8564. At any time not later than the hour set for hearing objections to the proposed budget, any owner of citrus, stone, or pome fruit acreage in the district may make written protest against the budget or any item in it.

SEC. 24. Section 8601 of the Food and Agricultural Code is amended to read:

8601. (a) The county assessor, in making the annual assessment of property in each and every year after the organization of the district, shall assess any parcel of real property with 25 or more citrus, stone, or pome fruit trees on it and enter as a separate item, on the assessment roll for each such parcel of real propety included in the district, the value, as improvements on the parcel, of all citrus, stone, or pome fruit trees which are growing on it.

(b) For the purpose of this part, the county assessor shall assess all citrus, stone, or pome fruit acreage at a uniform value per acre. The assessment shall be upon an acreage basis and the number of acres shall be determined conclusively, except as otherwise provided in this section, by the assessor counting the trees and dividing the total number by the number of trees per acre of average planting. The county assessor in counting the citrus, stone, or pome fruit trees shall not, however, count any more than 200 trees on any one acre of land, and for any citrus, stone, or pome fruit acreage which has from 70 to 100 trees per acre the number of acres to be determined by the county assessor shall be the actual acreage of the parcel.

(c) Upon completing the assessment roll of the county in each year, the assessor shall separately compute and certify, to the board of supervisors, the total assessed value, as shown by the assessment roll, of all the citrus, stone, or pome fruit trees in the district.

SEC. 25. Section 8602 of the Food and Agricultural Code is amended to read:

8602. Whenever acreage within the district is planted with citrus, stone, or pome fruit trees in such a fashion as to qualify as citrus, stone, or pome fruit acreage, the acreage is subject to assessment as provided in this part.

SEC. 26. Section 8603 of the Food and Agricultural Code is amended to read:

8603. Whenever any citrus, stone, or pome fruit trees have been removed from any parcel of land included in the district, the owner of the parcel of land may file with the board an affidavit particularly describing the parcel of land, and setting forth the fact of the removal therefrom of the trees. Thereupon, the board shall cause an investigation of the parcel of land to be made and, if the board finds

the allegations of the affidavit are true, the board shall immediately certify this fact to the county assessor and the amount of citrus, stone, or pome fruit acreage removed shall not be assessed on the next assessment roll.

SEC. 27. Section 8604 of the Food and Agricultural Code is amended to read:

8604. (a) The board shall, on or before the first Monday in July of each year, file with the board of supervisors the final budget which sets forth all estimated expenditures of the district for the fiscal year commencing on the first day of July. A copy of the budget shall also at the same time be filed with the auditor of the county.

(b) The board of supervisors shall annually, at the time of levying other county taxes, levy an assessment upon all the citrus, stone, or pome fruit trees planted or growing in the district, regardless of age, as assessed by the assessor pursuant to this part. The rate shall be such as will produce, after due allowance for delinquency, the amount determined as necessary to be raised on the secured roll. If a fraction of a cent occurs on a valuation of one hundred dollars ($100), it shall be taken as a full cent.

SEC. 28. Section 8605 of the Food and Agricultural Code is amended to read:

8605. The assessment authorized to be assessed and levied is hereby declared to be in the nature of a special assessment, and the Legislature hereby finds that the owners of all citrus, stone, or pome fruit trees will be benefited by the district to the same extent and in the same manner regardless of the age of the trees. The assessments authorized by this chapter to be assessed and levied on the trees shall be assessed and levied on all citrus, stone, or pome fruit trees regardless of their age.

SEC. 29. Section 8651 of the Food and Agricultural Code is amended to read:

8651. Lands devoted exclusively to the growing of citrus, stone, or pome fruits within a tract of land outside the district but in the county wherein the district is located may be annexed to the district.

SEC. 30. Section 8702 of the Food and Agricultural Code is amended to read:

8702. Proceedings for consolidation may be initiated by the filing of a petition for consolidation with the board of each district to be consolidated. Each petition shall be signed by the owners of 51 percent by area of the citrus, stone, or pome fruit land in the district. Upon the filing of such a petition, the board of directors shall adopt a resolution which recites the fact of receipt and the willingness of the district to consolidate, and shall then send copies of the petition and resolution to the board of directors of each of the other districts. The board shall send the original petition and a certified copy of the resolution to the board of supervisors of the county in which is located the largest area of citrus, stone, or pome fruit acreage of the proposed consolidated district, and a copy of the petition and resolution to the board of supervisors of each of the other counties

in which is located any part of the proposed consolidated district.

SEC. 31. Section 8703 of the Food and Agricultural Code is amended to read:

8703. Upon presentation and filing of the petitions of two or more districts proposing consolidation, the board of supervisors of the county in which is located the largest area of citrus, stone, or pome fruit acreage of the proposed consolidated district shall fix a time and place for hearing the petitions. Notice shall be given and the hearing conducted in the same manner and with the same effect as prescribed for the formation of a district pursuant to Chapter 2 (commencing with Section 8451).

SEC. 32. Section 8704 of the Food and Agricultural Code is amended to read:

8704. If the board of supervisors determines that the consolidation is feasible and for the best interests of the citrus, stone, or pome fruit growers of the respective districts, it shall by resolution duly adopted declare the districts consolidated into one district, giving the consolidated district a name which name shall include the term "consolidated." Certified copies of the resolution shall be filed with the Secretary of State and, for record, with the county recorder of each county in which is located any part of the consolidated district. Upon the filing, the districts are consolidated into a single consolidated district with all the rights, privileges, and powers of a district. The consolidated district shall succeed to all the funds and other property, and is subject to all the indebtedness, bonded and otherwise, of the districts consolidated. Each district which is included in the consolidated district shall continue in existence for the purpose of representation on the board of the consolidated district, and for the purpose of levying, assessing, and collecting assessments for district purposes. The board of the consolidated district is, however, the board of each district which is included in the consolidated district.

SEC. 33. Section 8705 of the Food and Agricultural Code is amended to read:

8705. Upon the adoption of a resolution consolidating two or more districts, the board of supervisors shall immediately appoint a board of directors of at least five members, including at least one member from each of the districts which are included in the consolidated district. If any of the districts which are included in the consolidated district includes more than 15,000 acres of citrus, stone, or pome fruit acreage, the board of directors shall be increased to a number equal to the number of districts which are included in the consolidated district, plus one additional director for each 10,000 acres, or major fraction of 10,000 acres, in any one district which is included in the consolidated district.

SEC. 34. Section 8707 of the Food and Agricultural Code is amended to read:

8707. Any district which has been included in a consolidated district may withdraw from the consolidated district and be

reconstituted as a separate district by filing with the board of directors of the consolidated district a petition for withdrawal which is signed by the owners of not less than 51 percent by area of citrus, stone, or pome fruit land in the district. The board of directors of the consolidated district shall send the original petition to the board of supervisors of the county in which the withdrawing district is located, and a copy of the petition to the board of supervisors of each of the other counties in which is located any part of the consolidated district. Upon receipt of a petition for withdrawal, the board of supervisors of the county in which the withdrawing district is located shall fix a time and place for hearing the petition. Notice shall be given and the hearing conducted in the same manner and with the same effect as prescribed for the formation of a district under Chapter 2 (commencing with Section 8451). Upon withdrawal of a district, all moneys collected from the district for the use of the consolidated district, and all property purchased with these moneys, shall remain the property of the consolidated district. All moneys collected from a district after it withdraws from a consolidated district shall be held for the use of the district.

SEC. 35. Section 8751 of the Food and Agricultural Code is amended to read:

8751. Upon the filing of a petition with the board of supervisors, signed by the owners of not less than 60 percent by area of the citrus, stone, or pome fruit acreage in the district, requesting the dissolution of the district, the board of supervisors shall set a time and place for hearing on the petition, which shall not be less than 20 days, nor more than 40 days, after the filing of the petition.

SEC. 36. Section 8756 of the Food and Agricultural Code is amended to read:

8756. If, at the hearing, a majority of the members of the board of supervisors find that the dissolution of the district will benefit the citrus, stone, or pome fruit industry of the county, it shall by resolution dissolve the district.

SEC. 37. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 38. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

This act will assist the producers of agricultural commodities, who are threatened by the infestation of various pests, in controlling those pests, by providing for industry funding for a control program and revising procedures for the creation of districts for the control and eradication of pests. In order to provide this assistance as rapidly as possible, it is necessary that this act take effect immediately.

CHAPTER 1102

An act to add Article 8 (commencing with Section 49050) to Chapter 6 of Part 27 of the Education Code, relating to education.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Article 8 (commencing with Section 49050) is added to Chapter 6 of Part 27 of the Education Code, to read:

Article 8. Searches by School Employees

49050. No school employee shall conduct a search that involves:

(a) Conducting a body cavity search of a pupil manually or with an instrument.

(b) Removing or arranging any or all of the clothing of a pupil to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the pupil.

49051. Nothing in this article shall be construed to affect the admissibility of evidence in subsequent juvenile or criminal proceedings.

CHAPTER 1103

An act relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

Unit 3-California State Employees' Association dated August 31, 1988.

Unit 5-California Association of Highway Patrolmen dated August 31, 1988.

SEC. 2. Notwithstanding Section 3517.6 of the Government Code, the provisions of any memorandum of understanding that require the expenditure of funds shall become effective even if the

provisions of the memorandum of understanding are approved by the Legislature in legislation other than the annual Budget Act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 1988–89 fiscal year, and so facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1104

An act to amend Section 1689.5 of the Civil Code, relating to home solicitation contracts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1689.5 of the Civil Code is amended to read:

1689.5. As used in Sections 1689.6 to 1689.11, inclusive:

(a) "Home solicitation contract or offer" means any contract, whether single or multiple, or any offer which is subject to approval, for the sale, lease, or rental of goods or services or both, made at other than appropriate trade premises in an amount of twenty-five dollars ($25) or more, including any interest or service charges. "Home solicitation contract" does not include any contract under which the buyer has the right to rescind pursuant to Title 1, Chapter 2, Section 125 of the Federal Consumer Credit Protection Act (P.L. 90-321) and the regulations promulgated pursuant thereto, or any contract for repair services with a contractor who is duly licensed pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, if (1) the contract price is less than one hundred dollars ($100), (2) the negotiation between the parties was initiated by the prospective buyer, and (3) the contract contains a written and dated statement signed by the prospective buyer stating that the negotiation between the parties was initiated by the prospective buyer.

(b) "Appropriate trade premises," means premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises.

(c) "Goods" means tangible chattels bought for use primarily for personal, family, or household purposes, including certificates or coupons exchangeable for such goods, and including goods which, at the time of the sale or subsequently, are to be so affixed to real

property as to become a part of such real property whether or not severable therefrom, but does not include any vehicle required to be registered under the Vehicle Code, nor any goods sold with such a vehicle if sold under a contract governed by Section 2982, and does not include any mobilehome, as defined in Section 18008 of the Health and Safety Code, nor any goods sold with such a mobilehome if either are sold under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code.

(d) "Services" means work, labor and services, including, but not limited to, services furnished in connection with the repair, alteration, or improvement of residential premises, or services furnished in connection with the sale or repair of goods as defined in Section 1802.1, and courses of instruction, regardless of the purpose for which they are taken, but does not include the services of attorneys, real estate brokers and salesmen, securities dealers or investment counselors, physicians, optometrists, or dentists, nor financial services offered by banks, savings institutions, credit unions, industrial loan companies, personal property brokers, consumer finance lenders, or commercial finance lenders, organized pursuant to state or federal law, which are not connected with the sale of goods or services, as defined herein, nor the sale of insurance which is not connected with the sale of goods or services as defined herein, nor services in connection with the sale or installation of mobilehomes or of goods sold with a mobilehome if either are sold or installed under a contract subject to the provisions of Section 18036.5 of the Health and Safety Code, nor services for which the tariffs, rates, charges, costs, or expenses, including in each instance the time sale price, is required by law to be filed with and approved by the federal government or any official, department, division, commission, or agency of the United States or of the State of California.

(e) "Business day" means any calendar day except Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

CHAPTER 1105

An act to add Sections 5353.5, 5384.1, and 5384.5 to the Public Utilities Code, and to amend, repeal, and add Section 23229 of, and to add Sections 1820 and 23229.1 to, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares that there is an increasing problem in California involving the consumption of alcoholic beverages by persons under the age of 21. The Legislature further finds that some young people, in order to have more privacy, hire chauffeured luxury limousines to facilitate their illegal drinking.

The Legislature further finds and declares that there is currently no uniform practice by operators of these limousine-for-hire services or drivers of the limousines with respect to verifying the legal age of passengers who are known to be drinking in the vehicle or who have access to alcoholic beverages stored in the passenger area. The Legislature further finds and declares that some of those operators and drivers are engaged in operating limousines for hire without being properly permitted by the Public Utilities Commission or licensed or regulated by any local authority.

The Legislature therefore intends by this act to ensure that chauffeured limousines for hire are not used to facilitate the illegal drinking of alcoholic beverages by minors. The Legislature therefore hereby declares its intent to require every charter-party carrier of passengers operating limousines for hire in California to be subject to the jurisdiction and control of the commission. The Legislature further intends to require these carriers and their drivers to fully comply with all laws proscribing the serving of alcoholic beverages to minors.

The Legislature further intends for the commission to require that all charter-party carriers of passengers in the state are properly regulated and conduct business consistent with the intent of this act. Toward this end, the Legislature intends for the commission to report annually to the Legislature regarding its enforcement efforts.

SEC. 2. Section 5353.5 is added to the Public Utilities Code, to read:

5353.5. On and after July 1, 1989, this chapter does not apply to transportation service, other than transportation service furnished in a limousine for hire, rendered wholly within the corporate limits of a single city or city and county and licensed or regulated by ordinance.

SEC. 3. Section 5384.1 is added to the Public Utilities Code, to read:

5384.1. (a) The driver of any limousine for hire operated by a charter-party carrier of passengers under a valid permit issued pursuant to Section 5384 shall do all of the following:

(1) The driver shall ascertain whether any passenger is under the age of 21 years.

(2) If any passenger is under the age of 21 years, the driver shall read to the passenger a statement that the consumption of any alcoholic beverage in the vehicle is unlawful, that no alcoholic beverage may be transported in the passenger compartment of the

vehicle, that all alcoholic beverages are required to be carried in the vehicle trunk or other locked compartment, and that, if during the course of the ride any minor is found to be, or to have been, consuming any alcoholic beverage, the contract will be terminated and the customer will be brought back to the point of origin of the ride.

(3) After reading the statement described in paragraph (2) to every passenger under the age of 21 years, the driver shall require every passenger under the age of 21 years to sign the statement and retain the signed statement until every minor passenger is discharged, pursuant to the contract of hire for the limousine and driver.

(4) If any minor passenger, after signing a statement pursuant to paragraph (3), is found to be, or to have been, consuming any alcoholic beverage during the course of any ride subject to this section, the driver shall immediately terminate the contract of hire and shall return the passengers to the point of origin of the ride.

(b) Any failure of a driver to comply with subdivision (a) that results in the conviction of the driver of a violation of Section 23225 of the Vehicle Code, shall be subject to the penalties prescribed in Section 5384.5.

(c) Notwithstanding any other provision of law, this section does not apply to the driver of any bus, taxicab, or van, and it does not prohibit a parent or legal guardian from consuming alcoholic beverages in a limousine for hire while accompanied by his or her minor children.

(d) This section shall become operative on July 1, 1989.

SEC. 4. Section 5384.5 is added to the Public Utilities Code, to read:

5384.5. (a) If the driver of any limousine for hire operating under a valid permit issued pursuant to Section 5384, or any officer, director, agent, or employee of a charter-party carrier of passengers operating limousines for hire under such a permit, is convicted of a violation of Section 23225 of the Vehicle Code, the commission, after a hearing, shall do the following:

(1) For a first offense, the commission may impose a civil penalty of not more than two thousand dollars ($2,000) upon the carrier, as determined appropriate by the commission.

(2) For a second offense, the commission may impose a civil penalty of not more than two thousand dollars ($2,000) upon the carrier or suspend the carrier's permit for not more than 30 days, or both, as determined appropriate by the commission.

(3) For a third offense, the commission shall revoke the carrier's permit.

(b) This section shall become operative on July 1, 1989.

SEC. 5. Section 1820 is added to the Vehicle Code, to read:

1820. (a) The prospective employer of a driver of a limousine for hire operated by a charter-party carrier of passengers pursuant to a permit issued by the Public Utilities Commission shall obtain a report

showing the driver's current public record as recorded by the department.

(b) Whenever a person is hired as the driver of a limousine for hire, the employer shall make a request to the department to participate in a pull notice system, which is a process for the purpose of providing an employer with a report showing the driver's current public record as recorded by the department, and any subsequent convictions, failures to appear, accidents, driver's license suspensions, driver's license revocations, or any other actions taken against the person's driving privilege added to the driver's record while the employer's notification request remains valid and uncanceled.

(c) Upon the termination of a driver's employment, the employer shall notify the department to cancel the employer's request for reports provided pursuant to this section.

(d) An employer who, after receiving the report of a person's driving record pursuant to this section, employs or continues to employ as a driver any person against whom a disqualifying action has been taken regarding his or her driving privilege is guilty of a public offense and, upon conviction thereof, shall be punished by imprisonment in the county jail for not more than six months, by a fine of not more than one thousand dollars ($1,000), or by both that fine and imprisonment.

(e) A request to participate in the pull notice system pursuant to this section shall be accompanied by a fee determined by the department to be sufficient to defray the entire actual cost to the department for the notification service. For the receipt of subsequent reports, the employer shall also be charged a fee established by the department pursuant to Section 1811.

(f) This section shall become operative on July 1, 1989.

SEC. 6. Section 23229 of the Vehicle Code is amended to read:

23229. (a) Sections 23221 and 23223 shall not apply to passengers in any bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or the living quarters of a housecar or camper, nor shall Section 23225 apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority.

(b) Sections 23220, 23221, 23222, 23223, 23225, and 23226 shall not apply to any person who, upon the recommendation of a doctor, carries alcoholic beverages in that person's motor vehicle for medicinal purposes. These sections shall also not apply to any clergyman who carries alcoholic beverages in the clergyman's motor vehicle for religious purposes.

(c) This section shall remain in effect only until July 1, 1989, and as of that date is repealed.

SEC. 7. Section 23229 is added to the Vehicle Code, to read:

23229. (a) Except as provided in Section 23229.1, Sections 23221 and 23223 do not apply to passengers in any bus, taxicab, or limousine

for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority, or the living quarters of a housecar or camper.

(b) Except as provided in Section 23229.1, Section 23225 does not apply to the driver or owner of a bus, taxicab, or limousine for hire licensed to transport passengers pursuant to the Public Utilities Code or proper local authority.

(c) This section shall become operative on July 1, 1989.

SEC. 8. Section 23229.1 is added to the Vehicle Code, to read:

23229.1. (a) Subject to subdivision (b), Sections 23223 and 23225 do apply to any charter-party carrier of passengers, as defined in Section 5360 of the Public Utilities Code, operating a limousine for hire when the driver of the vehicle transports any passenger under the age of 21.

(b) For purposes of subdivision (a), it is not a violation of Section 23225 for any charter-party carrier of passengers operating a limousine for hire which is licensed pursuant to the Public Utilities Code to keep any bottle, can, or other receptacle containing any alcoholic beverage in a locked utility compartment within the area occupied by the driver and passengers.

(c) In addition to the requirements of Section 1803, every clerk of a court, or judge if there is no clerk, in which any driver in subdivision (a) was convicted of a violation of Section 23225 shall prepare within 10 days after conviction, and immediately forward to the Public Utilities Commission at its office in San Francisco, an abstract of the record of the court covering the case in which the person was convicted. If sentencing is not pronounced in conjunction with the conviction, the abstract shall be forwarded to the commission within 10 days after sentencing, and the abstract shall be certified, by the person required to prepare it, to be true and correct.

For the purposes of this subdivision, a forfeiture of bail is equivalent to a conviction.

(d) This section shall become operative on July 1, 1989.

SEC. 9. (a) The Public Utilities Commission shall, not later than December 31, 1989, December 31, 1990, and December 31, 1991, prepare and submit a report to the Legislature which describes the commission's enforcement efforts carried out pursuant to this act. The report shall include, but not be limited to, the following:

(1) The number of charter-party carriers of passengers permitted to operate limousines for hire in California, and the number of vehicles licensed in each operator's fleet.

(2) The revenues collected by the commission from carriers described in paragraph (1), pursuant to Article 2 (commencing with Section 421) of Chapter 2.5 of Part 1 of Division 1 of the Public Utilities Code, with revenues which are based on carriers' gross revenues listed separately.

(3) A description of enforcement activities, the number of investigators utilized, and the costs incurred for activities carried out pursuant to this act.

(4) A description of all sanctions imposed upon carriers described in paragraph (1), pursuant to Section 2101, 2102, 2110, 2113, 5379.5, or 5384.5, or pursuant to Article 6 (commencing with Section 5411) of Chapter 8 of Division 2 of the Public Utilities Code. The report shall include discussion of any sanctions imposed for carriers operating without a license and for carriers underreporting their gross revenues.

(b) The report submitted pursuant to subdivision (a) shall be made available for public inspection.

SEC. 10. There is hereby appropriated to the Public Utilities Commission seventy-two thousand dollars ($72,000) from the Public Utilities Commission Transportation Reimbursement Account in the General Fund, for the purposes of this act.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1106

An act to amend Sections 14529.11 and 14529.12 of, to add Section 14529.14 to, and to add and repeal Section 14529.13 of, the Government Code, and to add Section 670.1 to the Streets and Highways Code, relating to state highways.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 14529.11 of the Government Code is amended to read:

14529.11. The following conditions apply to projects in the state highway system which are financed, in whole or in part, from retail transactions and use taxes as part of an identified expenditure plan or those projects to which the department has determined that subdivision (b) of Section 14529.12 is applicable.

(a) A local jurisdiction which chooses to provide its own financing for the construction or improvement of a state highway shall be responsible for determining the priority and delivery schedule of locally funded projects. The jurisdiction shall consult with the department in determining the schedules.

(b) The local jurisdiction shall request that the department, as the state agency responsible for determining the final concept and location of projects in the state highway system, prepare, or cause to be prepared, initial project reports in conjunction with the local

jurisdiction. The request shall accompany or be predicated on a strategic plan developed by the local jurisdiction which includes information on the description, priority, and delivery schedule of all projects proposed by the local jurisdiction to be financed by retail transactions and use taxes. The department shall review the strategic plan to assess the department's long-term resource capabilities, and shall develop and submit a recommendation to the local jurisdiction for the management and conduct of all phases of the work to meet the priorities established by the local jurisdiction.

(c) The department shall use the initial project report prepared pursuant to subdivision (b) to determine and obtain initial agreements with the local jurisdiction on feasibility, concept, estimates, staging, limits, environmental considerations, and schedules. The department shall prepare the initial project report at state expense and within a timeframe established jointly by the local jurisdiction and the department. The local jurisdiction shall provide, at its expense, appropriate existing technical and financial information that may be needed to prepare the initial project report and may, at its option, provide other data to expedite preparation and approval, including draft initial project reports prepared with the approval of the department. After the department and the local jurisdiction have provided their initial approval, any change in project scope that causes any change in cost estimates or schedule shall be agreed upon by the local jurisdiction, the department and, where appropriate, the Federal Highway Administration.

(d) Upon completion of the initial project report, or at a time deemed appropriate by the local jurisdiction, the department shall respond within 30 days to a request from the local jurisdiction to prepare, or cause to be prepared, all project development work through environmental clearance for those projects financed by retail transactions and use taxes. The local jurisdiction's request shall include the local jurisdiction's final determination of the priority and delivery schedule of proposed projects. The determination may, but is not required to, match the initial agreements reached in the initial project report. If the department determines that it is able to comply with the request, the state shall pay for the project development work through environmental clearance. If the department determines it is unable to comply with the request, the local jurisdiction may proceed with project development pursuant to Section 14529.12. If the department and the local jurisdiction concur, the local jurisdiction may undertake project development work through environmental clearance at its own expense, under the oversight of the department. The cost of oversight shall be borne by the department.

(e) A local jurisdiction which has determined to utilize its own retail transactions and use taxes to fund the construction or improvement of a state highway project may, if the department is unable to comply with the request specified in subdivision (d), request the department to furnish the local jurisdiction with all

information and assistance necessary to enable the local jurisdiction to proceed with the planning, design, right-of-way acquisition, and construction of the project. A local jurisdiction which chooses to proceed with project development work through environmental clearance pursuant to this section, is responsible for all the costs associated with the work. The department, however, shall provide the required oversight at state expense.

Upon receiving sufficient assurances that adequate local funding for the project will be made available by the local jurisdiction, the department shall move expeditiously to furnish that information and assistance to the local jurisdiction within 90 days of the department's determination that it cannot comply with the request specified in subdivision (d). This information shall be made available only after the department has had the opportunity to determine whether it will be able to comply with the request specified in subdivision (d).

The project shall be designed, right-of-way acquired, and the environmental documents prepared in accordance with the department's practices for planning, design, right-of-way acquisition, and construction. The department shall prescribe these practices in policy and procedural memoranda within the 90-day period.

(f) The detailed application of the conditions prescribed by this section shall be set forth in an agreement between the department and the local jurisdiction.

(g) All work done on the state highway system under this section shall be done in conformance with Section 14529.13.

(i) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. Section 14529.12 of the Government Code is amended to read:

14529.12. (a) For projects costing more than two hundred fifty thousand dollars ($250,000) for work on the state highway system, a local jurisdiction which has determined to utilize its own funds, including locally imposed fees or revenues from other local sources, but excluding retail transactions and use taxes, may request the department to prepare, or cause to be prepared, a project study report in conjunction with the local jurisdiction. Except for those projects administered by a joint powers agency pursuant to Section 66484.3, the request shall be approved by the county transportation commission or transportation planning agency. The request shall include preliminary information on the description and project delivery schedule proposed by the project sponsor. The local jurisdiction shall provide, at its expense, appropriate technical and financial information that may be needed to prepare a project study report and may, at its option, provide other data to expedite preparation and approval, including draft project study reports prepared with the approval of the department.

Upon completion of the project study report, the department, at its expense, shall use the project study report to determine and

obtain initial agreements with the local jurisdiction on feasibility, concept, estimates, staging, limits, environmental considerations, and schedules.

(b) If the department determines, based on the results of the project study report, that the proposed work will result in a substantial capacity improvement of more than two miles on a state highway segment, excluding auxiliary lanes constructed to enhance interchange/intersection operations, or will result in improvements to or construction of a major freeway-to-freeway interchange, Section 14529.11 applies to that work. Notwithstanding that requirement, the department's financial and support responsibilities on state highway projects financed by revenues administered by a joint powers agency pursuant to Section 66484.3 includes, and is limited to, oversight of those projects. The cooperative agreement shall establish the provisions and responsibilities of the department and the local jurisdiction for all project development work, including the completion of the environmental studies and for all succeeding phases of design, right-of-way acquisition, and construction in conformance with financial and support responsibilities as specified in Section 14529.11.

(c) Excluding that locally funded work determined to be subject to Section 14529.11 and excluding noise attenuation barriers constructed in conformance with subdivision (d) of Section 215.5 of the Streets and Highways Code, the department shall enter into a cooperative agreement with a local jurisdiction choosing to proceed with projects meeting the criteria in subdivision (a). As part of the cooperative agreement, the local jurisdiction shall commit to providing project development work through environmental clearance at the expense of the local jurisdiction, except that the expense of required oversight shall be the financial responsibility of the department. The cooperative agreement shall also commit the local jurisdiction to provide a deposit, an escrow account, a bond, or a letter of credit from a federally insured lending institution covering the estimated costs for the department's oversight of environmental, design, and right-of-way activities. The department shall release without deduction, the deposit, escrow account, or bond back to the local jurisdiction when a construction contract is awarded. If a construction contract has not been awarded within five years of notice of approval to proceed with project development subsequent to approval of a project study report or an initial project report, the department shall deduct costs to date, free of interest, for oversight, and return any unused deposit, escrow account, or bond proceeds to the project sponsor. The department may grant a time extension beyond the five-year period if a finding is made that reasonable progress is being made and that a construction project is likely to result within a reasonable period of time. The department shall not return deducted funds whether or not a project is ultimately constructed.

(d) All work done on the state highway system financed, in whole

or in part, from locally developed revenues shall be done in conformance with Section 14529.13.

(e) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 3. Section 14529.13 is added to the Government Code, to read:

14529.13. Projects constructed pursuant to Sections 14529.11 and 14529.12 shall meet the following standards and financial responsibilities.

(a) The project shall be designed, right-of-way acquired, and the environmental documents prepared in accordance with the department's practices for planning, design, right-of-way acquisition, and construction. At a minimum, the local jurisdiction shall pay all costs of project development work after environmental clearance, including, but not limited to, design, right-of-way acquisition, and construction. The department shall provide appropriate oversight. These practices shall not apply to the organizational structure of the local jurisdiction or any of its consultants.

(b) The department shall accept the completed project into the state highway system if it was approved, right-of-way acquired, and constructed in accordance with the practices prescribed by the department pursuant to Sections 14529.11 and 14529.12 and this section.

(c) Review and approval of project work being done by a local jurisdiction shall be expedited by the department. The department shall organize appropriate professional staff for oversight to ensure that all work done on the state highway system on projects funded by retail transactions and use taxes or other local sources of revenue conforms with established department practices. The required level of departmental oversight for this review and approval is the financial responsibility of the department.

(d) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 4. Section 14529.14 is added to the Government Code, to read:

14529.14. Notwithstanding the repeal of Sections 14529.11, 14529.12, and 14529.13 on January 1, 1992, any project development work leading to environmental clearance that has been initiated by the department pursuant to Section 14529.11, 14529.12, or 14529.13 prior to January 1, 1992, shall be fully completed by the department.

The department and any local jurisdiction shall continue to honor any cooperative agreements executed prior to January 1, 1992, that were in conformance with those sections at the time of execution.

SEC. 5. Section 670.1 is added to the Streets and Highways Code, to read:

670.1. (a) The department may issue a permit to the owner or developer of property adjacent to or near a state highway to

construct, alter, repair, or improve any portion of the highway for the purpose of improving local traffic access, if the improvements to the highway are required as part of, or as a condition to, the development of property and the improvements are accepted by the department.

(b) The permit may be issued only if the work within the highway right-of-way is to be performed in accordance with plans and specifications approved by the department and the department reserves the right to inspect and accept the work as complying with the approved plans and specifications.

(c) All road, bridge, street lighting, or installation of signal work performed under a permit issued pursuant to this section for acceptance into the state highway system, except work performed solely to allow private encroachments onto the state highway or for utility or drainage encroachments within the state highway, are public works for purposes of Part 7 (commencing with Section 1720) of Division 2 of the Labor Code.

CHAPTER 1107

An act to amend Sections 26506, 26506.2, and 26506.4 of, and to add Section 26200.5 to, the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 26200.5 is added to the Health and Safety Code, to read:

26200.5. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under Section 26506.2 shall be deposited in the Food Safety Fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this division relating to food.

SEC. 2. Section 26506 of the Health and Safety Code is amended to read:

26506. Every person upon first engaging in the manufacture, packing, or holding of processed food in this state shall immediately register with the department. The registration is valid for one calendar year from the date of validation by the department of the completed registration form. The department shall provide to each registrant a validated copy of the completed registration form, sent to the mailing address shown on the form, as evidence of valid registration.

SEC. 3. Section 26506.2 of the Health and Safety Code is amended to read:

26506.2. A registration form provided by the department shall be

completed annually and accompanied by a nonreturnable registration fee of three hundred fifty dollars ($350). The registration or renewal of registration shall set forth all applicable information called for by the registration form. The fee amount shall be adjusted annually pursuant to Section 113.

SEC. 4. Section 26506.4 of the Health and Safety Code is amended to read:

26506.4. The registration provisions of this chapter shall not apply to any of the following:

(a) Any person who has a valid bottled water or water vending machine license issued pursuant to Article 6.5 (commencing with Section 26591) of Chapter 5 of Division 21.

(b) Any person who has a valid pet food license issued pursuant to Chapter 3.5 (commencing with Section 27000) of Division 22.

(c) Any retail food facility as defined in Chapter 4 (commencing with Section 27500) of Division 22.

(d) Any person who has a valid cold storage license issued pursuant to Chapter 5 (commencing with Section 28110) of Division 22.

(e) Any person who has a valid cannery license issued pursuant to Chapter 8 (commencing with Section 28360) of Division 22.

(f) Any person who has a valid shellfish certificate issued pursuant to Chapter 10 (commencing with Section 28500) of Division 22.

(g) Any person who has a valid frozen food locker plant license issued pursuant to Chapter 12 (commencing with Section 28700) of Division 22.

(h) Any person who has a valid winegrower's license or wine blender's license pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code.

(i) Any person who has a valid milk products plant, margarine, imitation ice cream, imitation ice milk, or a products resembling milk products plant license, issued pursuant to Division 15 (commencing with Section 32501) of the Food and Agricultural Code.

CHAPTER 1108

An act to amend Section 25400 of the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 25400 of the Health and Safety Code is amended to read:

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or

presence of hazardous substances on public or private property; and that public entities, county public health directors, public safety employees, or registered sanitarian employees should be encouraged to abate those hazards, and to that end a qualified immunity from liability should be provided for public entities, county public health directors, public safety employees, or registered sanitarian employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, a public entity, county public health director, a public safety employee, or a registered sanitarian employee shall not be liable for any injury caused by an action taken by a county public health director, a public safety employee, or a registered sanitarian employee acting within the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the action taken was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the action was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

(d) For the purposes of this section, "hazardous substance" means a substance that presents a threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(e) For purposes of this section, "public safety employee" means any person who is a public entity employee and whose principal duties include law enforcement, fire protection, fire prevention, or the enforcement of regulations relating to facilities or sites where hazardous substances are stored or handled.

(f) For the purposes of this section, a "registered sanitarian employee" means a person who is registered pursuant to Section 520 and who is a paid employee of a state or local public entity.

(g) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity, county public health director, public safety employee, or registered sanitarian employee.

(h) The immunity for county public health directors or registered sanitarian employees provided by this section shall apply only where the person, at the request of a public safety employee in charge of scene management, provides emergency assistance or advice at the scene of the peril in mitigating or attempting to mitigate the effects of an actual or threatened discharge, spill, or presence of a hazardous substance on private or public property. The request issued by the scene manager shall be confirmed by that person in a written report of the incident.

CHAPTER 1109

An act to add and repeal Section 1493 of the Health and Safety Code, relating to AIDS.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1493 is added to the Health and Safety Code, to read:

1493. (a) The State Department of Health Services shall, either directly or pursuant to contract, develop, produce, and disburse a brochure, specifically designed for victims of sexual assault, concerning possible exposure to acquired immune deficiency syndrome (AIDS). The brochure shall comply with all of the following:

(1) Be very brief and concise.

(2) Be written at sixth-grade reading level.

(3) Be sensitive to sexual assault victims.

(4) At a minimum the brochure shall contain an explanation of all of the following:

(A) What the AIDS virus is, how it is contracted and transmitted, and its incubation period.

(B) The nature, desirability, reliability, and accessibility of the test for the AIDS virus.

(C) The need for pretest and posttest counseling.

(D) The desirability of monitoring one's own health.

(E) Risk of contracting the virus to a nursing or pregnant woman, spouse or sexual partner.

(5) Provide phone number of AIDS information hotline.

(6) Leave a blank area for local agencies to stamp phone numbers.

(b) The Director of Health Services may award a contract on a sole source basis, in order to make the brochure available as soon as possible.

(c) Copies of the brochure shall be provided to all county hospitals, to any facility which provides services to victims of sexual assault, and to police and sheriff departments.

(d) Any entity receiving copies of the brochure pursuant to subdivision (c) shall provide each victim of sexual assault served by the entity with a copy of the brochure.

(e) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute chaptered prior to January 1, 1992, deletes or extends that date.

CHAPTER 1110

An act to amend Section 19549.8 of the Business and Professions Code, relating to horseracing.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 19549.8 of the Business and Professions Code is amended to read:

19549.8. Notwithstanding Section 19414.5, the board may allocate racing weeks consisting of four or more racing days to an association conducting racing meetings pursuant to Section 19549.1, 19549.6, or 19549.7 if the association and the organization representing the horsemen agree to the allocation.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

CHAPTER 1111

An act to repeal Section 1351.2 of the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1351.2 of the Health and Safety Code is repealed.

CHAPTER 1112

An act to amend Section 53651 of the Government Code, relating to local agency finances.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of

indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as the loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes or assessments to pay the principal and interest of the bonds upon all property within its boundaries subject to taxation or assessment by the local agency or district, and in addition, limited obligation bonds pursuant to Article 4 (commencing with Section 50665) of Chapter 3 of Division 1, senior obligation bonds pursuant to Article 5 (commencing with Section 53387) of Chapter 2.7, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by the state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between the public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in the contract pursuant to that subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on the obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States Postal Service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the federal home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home loan bank established under that act, bonds, debentures and other

obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of the department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided the obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, the Asian Development Bank, or the African Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(*l*) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds which comply with Section 53651.2.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance those bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the

Education Code.

(o) Any municipal securities, as defined by Section 3(a) (29) of the Securities Exchange Act of June 6, 1934 (15 U.S.C. Sec. 78, as amended), which are issued by this state or any local agency thereof.

(p) With the consent of the treasurer, letters of credit issued by the Federal Home Loan Bank of San Francisco which comply with Section 53651.6.

CHAPTER 1113

An act to amend Sections 244.5, 415.5, 626, and 626.10 of, and to add Section 245.5 to, the Penal Code, relating to crimes.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 244.5 of the Penal Code is amended to read:

244.5. (a) As used in this section, "stun gun" means any item, except a taser, used or intended to be used as either an offensive or defensive weapon that is capable of temporarily immobilizing a person by the infliction of an electrical charge.

(b) Every person who commits an assault upon the person of another with a stun gun or taser shall be punished by imprisonment in a county jail for a term not exceeding one year, or by imprisonment in the state prison for 16 months, two, or three years.

(c) Every person who commits an assault upon the person of a peace officer or firefighter with a stun gun or taser, who knows or reasonably should know that the person is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year, or by imprisonment in the state prison for two, three, or four years.

(d) This section shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

SEC. 2. Section 245.5 is added to the Penal Code, to read:

245.5. (a) Every person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a school employee, and who knows or reasonably should know that the victim is a school employee engaged in the performance of his or her duties, when that school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years, or in the county jail not exceeding one year.

(b) Every person who commits an assault with a firearm upon the person of a school employee, and who knows or reasonably should

know that the victim is a school employee engaged in the performance of his or her duties, when the school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for four, six, or eight years, or in the county jail for a term of not less than six months and not exceeding one year.

(c) Every person who commits an assault upon the person of a school employee with a stun gun or taser, and who knows or reasonably should know that the person is a school employee engaged in the performance of his or her duties, when the school employee is engaged in the performance of his or her duties, shall be punished by imprisonment in the county jail for a term not exceeding one year or by imprisonment in the state prison for two, three, or four years.

This subdivision shall not be construed to preclude or in any way limit the applicability of Section 245 in any criminal prosecution.

(d) As used in the section "school employee" means any person employed as a permanent or probationary certificated or classified employee of a school district on a part-time or full-time basis, including a substitute teacher. "School employee" as used in this section also includes a student teacher. "School" as used in this section has the same meaning as that term is defined in Section 626.

SEC. 3. Section 415.5 of the Penal Code is amended to read:

415.5. (a) Any person who (1) unlawfully fights within any building or upon the grounds of any school, community college, university, or state university or challenges another person within any building or upon the grounds to fight, or (2) maliciously and willfully disturbs another person within any of these buildings or upon the grounds by loud and unreasonable noise, or (3) uses offensive words within any of these buildings or upon the grounds which are inherently likely to provoke an immediate violent reaction is guilty of a misdemeanor punishable by a fine not exceeding four hundred dollars ($400) or by imprisonment in the county jail for a period of not more than 90 days, or both.

(b) If the defendant has been previously convicted once of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, the defendant shall be sentenced to imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both that imprisonment and a fine of not exceeding one thousand dollars ($1,000), and shall not be released on probation, parole, or any other basis until not less than 10 days of imprisonment has been served.

(c) If the defendant has been previously convicted two or more times of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, the defendant shall be sentenced to imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both that imprisonment and a fine of not exceeding one thousand dollars ($1,000), and shall not be released on probation, parole, or any other

basis until not less than 90 days of imprisonment has been served.

(d) For the purpose of determining the penalty to be imposed pursuant to this section, the court may consider a written report from the Department of Justice containing information from its records showing prior convictions; and the communication is prima facie evidence of such convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(e) As used in this section "state university," "university," "community college," and "school" have the same meaning as these terms are given in Section 626.

(f) This section shall not apply to any person who is a registered student of the school, or to any person who is engaged in any otherwise lawful employee concerted activity.

SEC. 4. Section 626 of the Penal Code is amended to read:

626. (a) As used in this chapter:

(1) "University" means the University of California, and includes any affiliated institution thereof and any campus or facility owned, operated, or controlled by the Regents of the University of California.

(2) "State university" means any California state university, and includes any campus or facility owned, operated, or controlled by the Trustees of the California State University.

(3) "Community college" means any public community college established pursuant to the Education Code.

(4) "School" means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school or any public right-of-way situated immediately adjacent to school property or any other place if a teacher and one or more students are required to be at that place in connection with assigned school activities.

(5) "Chief administrative officer" means:

(i) The president of the university or a state university, the Chancellor of the California State University, or the officer designated by the Regents of the University of California or pursuant to authority granted by the Regents of the University of California to administer and be the officer in charge of a campus or other facility owned, operated, or controlled by the Regents of the University of California, or the superintendent of a community college district.

(ii) For a school: the principal of the school; or a person who possesses a standard supervision credential or a standard administrative credential and who is designated by the principal; or a person who carries out the same functions as a person who possesses a credential and who is designated by the principal.

(b) For the purpose of determining the penalty to be imposed pursuant to this chapter, the court may consider a written report from the Department of Justice containing information from its

records showing prior convictions; and the communication is prima facie evidence of the convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

SEC. 5. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any such officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a misdemeanor.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any such officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any university, state university, or community college is guilty of a misdemeanor.

(c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12 or any university, state university, or community college at the direction of a faculty member of the university or state university or a certificated or classified employee of the school for use in a university, state university, or a school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the

grounds of, or within, any university, state university, or community college, for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Any certificated or classified employee or school peace officer of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or peace officer of any university, state university, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

SEC. 5.5. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3½ inches, folding knife with a blade that locks into place, a razor with an unguarded blade, a taser, or a stun gun, as defined in subdivision (a) of Section 244.5, upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a public offense punishable by imprisonment in the county jail not exceeding one year, or by imprisonment in the state prison.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any university, the University of California, the California State University, or the California community colleges is guilty of a public offense punishable by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

(c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades

1 through 12 or any university, state university, or community college at the direction of a faculty member of the university or state university, or a certificated or classified employee of the school for use in a university, state university, or a school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or a razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any university, state university, or community college, for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Any certificated or classified employee or school peace officer of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any university, state university, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

SEC. 6. Section 5.5 of this bill incorporates amendments to Section 626.10 of the Penal Code proposed by both this bill and AB 3998. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 626.10 of the Penal Code, and (3) this bill is enacted after AB 3998, in which case Section 5 of this bill shall not become operative.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1114

An act to amend Section 2860 of the Civil Code, relating to insurance.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 2860 of the Civil Code is amended to read:

2860. (a) If the provisions of a policy of insurance impose a duty to defend upon an insurer and a conflict of interest arises which creates a duty on the part of the insurer to provide independent counsel to the insured, the insurer shall provide independent counsel to represent the insured unless, at the time the insured is informed that a possible conflict may arise or does exist, the insured expressly waives, in writing, the right to independent counsel. An insurance contract may contain a provision which sets forth the method of selecting that counsel consistent with this section.

(b) For purposes of this section, a conflict of interest does not exist as to allegations or facts in the litigation for which the insurer denies coverage; however, when an insurer reserves its rights on a given issue and the outcome of that coverage issue can be controlled by counsel first retained by the insurer for the defense of the claim, a conflict of interest may exist. No conflict of interest shall be deemed to exist as to allegations of punitive damages or be deemed to exist solely because an insured is sued for an amount in excess of the insurance policy limits.

(c) When the insured has selected independent counsel to represent him or her, the insurer may exercise its right to require that the counsel selected by the insured possess certain minimum qualifications which may include that the selected counsel have (1) at least five years of civil litigation practice which includes substantial defense experience in the subject at issue in the litigation, and (2) errors and omissions coverage. The insurer's obligation to pay fees to the independent counsel selected by the insured is limited to the rates which are actually paid by the insurer to attorneys retained by it in the ordinary course of business in the defense of similar actions in the community where the claim arose or is being defended. This subdivision does not invalidate other different or additional policy provisions pertaining to attorney's fees or providing for methods of settlement of disputes concerning those fees. Any dispute concerning attorney's fees not resolved by these methods shall be resolved by final and binding arbitration by a single neutral arbitrator selected by the parties to the dispute.

(d) When independent counsel has been selected by the insured, it shall be the duty of that counsel and the insured to disclose to the insurer all information concerning the action except privileged

materials relevant to coverage disputes, and timely to inform and consult with the insurer on all matters relating to the action. Any claim of privilege asserted is subject to in camera review in the appropriate law and motion department of the superior court. Any information disclosed by the insured or by independent counsel is not a waiver of the privilege as to any other party.

(e) The insured may waive its right to select independent counsel by signing the following statement:

"I have been advised and informed of my right to select independent counsel to represent me in this lawsuit. I have considered this matter fully and freely waive my right to select independent counsel at this time. I authorize my insurer to select a defense attorney to represent me in this lawsuit."

(f) Where the insured selects independent counsel pursuant to the provisions of this section, both the counsel provided by the insurer and independent counsel selected by the insured shall be allowed to participate in all aspects of the litigation. Counsel shall cooperate fully in the exchange of information that is consistent with each counsel's ethical and legal obligation to the insured. Nothing in this section shall relieve the insured of his or her duty to cooperate with the insurer under the terms of the insurance contract.

CHAPTER 1115

An act to amend Sections 69560, 69561, 69562, 69563, and 69564 of, to add Sections 69566 and 69567 to, and to repeal and add Section 69565 of, the Education Code, relating to student financial aid.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 69560 of the Education Code is amended to read:

69560. The Legislature finds and declares that:

(a) Lack of information about postsecondary educational opportunities and low achievement levels are primary barriers to a college education for low-income and ethnic minority students.

(b) The Student Opportunity and Access Program, initiated in 1978 to increase postsecondary educational opportunities for low-income and ethnic minority secondary school students, has been successful in meeting its goals to increase the availability of information, improve students' access to higher education by raising their achievement levels, and reduce the duplication of services by coordinating outreach efforts.

(c) The intersegmental consortium nature of the program has proven to be a highly effective mechanism in coordinating existing

services and in fostering the cooperation of the various education segments involved.

(d) An essential core of state funding for the program is required to maintain its intersegmental character, which has generated better communication, understanding, teamwork, and unity resulting in an impact enhanced by the collective effort.

(e) The anticipated growth in the state's ethnic population indicates an increasing demand for services provided by the program to assist students to compete successfully for admission to postsecondary educational institutions.

(f) Stipends for college students of low-income backgrounds to provide informational and tutorial help for low-income and ethnic minority students is a cost-effective method of increasing access and of providing student financial aid.

SEC. 2. Section 69561 of the Education Code is amended to read:

69561. The Student Opportunity and Access Program is administered by the Student Aid Commission, which shall apportion funds for the support of projects designed to increase the accessibility of postsecondary educational opportunities to low-income and ethnic minority secondary school students. These projects shall primarily (1) increase the availability of information for low-income and ethnic minority students on the existence of postsecondary schooling and work opportunities, and (2) raise the achievement levels of low-income and ethnic minority students so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities. Projects may also assist low-income and ethnic minority community college students in transferring to four-year institutions, to the extent that project resources are available. Projects supported by the commission shall also meet the following criteria:

(a) Each project shall be proposed and operated through a consortium that involves at least one secondary school district office and one community college and two of the following educational agencies: nonprofit educational, counseling, or community agencies; the University of California; the California State University; the California Maritime Academy; independent colleges and universities, or eligible private vocational or technical schools. As used in this article, eligible private vocational or technical schools shall include schools accredited by a national, state, or regional accrediting association recognized by the United States Department of Education. The commission, in awarding initial project grants, shall give priority to proposals developed by more than three eligible agencies. Projects shall be located throughout the state in order to provide access to program services in rural, urban, and suburban areas.

(b) The governing board of each project, comprising at least one representative from each entity in the consortium, shall establish management policy, provide direction to the project director, set priorities for budgetary decisions that reflect the specific needs of the

project, and assume responsibility for maintaining the required level of matching funds, including solicitations from the private sector and corporate sources.

(c) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information:

(1) The agencies participating in the project.

(2) The students to be served by the project.

(3) The ways in which the project will reduce duplication and related costs.

(4) The methods for assessing the project's impact.

(d) Each project shall include the direct involvement of secondary school staff in the daily operations of the project, with preference in funding to those projects that effectively integrate the objectives of the Student Opportunity and Access Program with those of the school district in providing services that are essential to the target student population in preparation for postsecondary education.

(e) Each project shall maintain within the project headquarters a comprehensive student-specific information system on low-income and ethnic minority students in grades 11 and 12 at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to pupil records.

(f) At least 30 percent of each project grant shall be allocated for stipends to peer advisors and tutors who meet all of the following criteria:

(1) Work with low-income and ethnic minority secondary school students.

(2) Are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student.

(3) Have demonstrated financial need for the stipend.

(g) Each project should work cooperatively with other projects in the program and with the commission to establish viable student services and sound administrative procedures and to ensure coordination of the activities of the project with existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the awarding of project grants and criteria for evaluating the effectiveness of the individual projects.

SEC. 3. Section 69562 of the Education Code is amended to read:

69562. The commission shall establish a 12-member project grant advisory committee to advise project directors and the commission on the development and operation of the projects, and consisting of the following:

(a) Three representatives of outreach programs, representing the University of California, the California State University, and the California community colleges, appointed by their respective governing boards.

(b) One representative of private colleges and universities,

appointed by the Association of Independent Colleges and Universities.

(c) One representative of the California Postsecondary Education Commission, appointed by the commission.

(d) Two secondary school staff, appointed by the Superintendent of Public Instruction.

(e) Two persons representing the general public, one appointed by the Speaker of the Assembly and the other by the Senate Rules Committee.

(f) Two postsecondary students, both appointed annually by the Student Advisory Committee of the California Postsecondary Education Commission.

(g) One college campus financial aid officer, appointed by the Student Aid Commission.

SEC. 4. Section 69563 of the Education Code is amended to read:

69563. (a) By June 30, 1992, the Student Aid Commission shall complete a comprehensive evaluation of each of the funded consortium projects. The evaluation shall assess the relative success of each project in achieving its objectives and identify those projects that are the most cost-effective. Funding for those projects that are considered ineffective shall be eliminated, with the funding for these projects made available to new consortium efforts.

(b) By June 30, 1992, the Student Aid Commission shall complete a comprehensive evaluation of the Student Opportunity and Access Program and assess its impact in meeting program objectives. The commission shall submit the evaluation to the California Postsecondary Education Commission and the Legislature. The California Postsecondary Education Commission shall review and comment on the evaluation.

SEC. 5. Section 69564 of the Education Code is amended to read:

69564. Allocation of any funds appropriated for purposes of this article shall be limited to those consortia meeting requirements of this article and providing equal matching resources from existing or budgeted increases in federal, state, local, and private funds. It shall be the goal of the program that beginning with the 1989–90 fiscal year, the total resources provided by the Student Opportunity and Access Program shall match state funding on at least a 1.5 to 1 ratio. Any new projects approved through expansion of the Student Opportunity and Access Program after July 1, 1989, shall provide equal matching resources for the first three years of operation and shall be encouraged to increase the matching resources to a 1.5 to 1 ratio with the state grant thereafter.

SEC. 6. Section 69565 of the Education Code is repealed.

SEC. 7. Section 69565 is added to the Education Code, to read:

69565. The initial grant for a proposed new project in an area that has demonstrated need for services provided by the Student Opportunity and Access Program may be utilized for planning and development. Full project grant funding shall be allocated when the consortium meets the criteria established in Section 69561.

SEC. 8. Section 69566 is added to the Education Code, to read:

69566. It is the intent of the Legislature that funding for the purposes of this article for the 1989–90 fiscal year and for each fiscal year thereafter, be appropriated in the annual Budget Act.

SEC. 9. Section 69567 is added to the Education Code, to read:

69567. This article shall become inoperative on June 30, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1116

An act to repeal and add Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code, relating to courts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 73340) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 2. Article 2 (commencing with Section 73340) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 2. Municipal Courts in Contra Costa County

73340. This article applies only to municipal courts established in judicial districts in Contra Costa County.

73341. Except as otherwise provided in this article, each municipal court district established in Contra Costa County shall have the number of judges set forth opposite the name of the judicial district over which that court has jurisdiction.

Bay Judicial District	5
Delta Judicial District	2
Mt. Diablo Judicial District	4
Walnut Creek-Danville Judicial District	3

73341.5. There shall be one marshal's office in Contra Costa County which shall serve all of the judicial districts of the county and which shall maintain branch offices in the Bay Judicial District, the Mt. Diablo Judicial District, and the Delta Judicial District.

73342. Consolidation of any judicial districts listed in Section 73341 shall be effective only with the concurrent approval of the Board of Supervisors of Contra Costa County and a majority of the judges in the affected judicial districts.

73343. Official reporters shall be appointed by the judges of each municipal court district pursuant to Section 72194 and shall serve at the pleasure of the judges.

The salary of each official reporter shall be at the rates provided for by Section 73348, which shall be a charge against the general fund of the county.

73344. Pursuant to Section 72194, the judges of the court may appoint as many additional reporters as the business of the court requires, who shall be known as official reporters pro tempore. They shall serve without salary but shall receive as compensation a fee which shall be the equivalent of the daily wage of the second step in the salary range for full-time official reporters in Contra Costa County as provided for by Section 73348 for each day that reporter is on duty under order of the court.

73345. Any official reporter may be assigned by the presiding judge of his or her district to act as official reporter pro tempore in any municipal court in Contra Costa County. During any such assignment he or she shall continue to receive his or her regular salary in lieu of any other compensation provided by law.

73346. (a) Fees for transcription of testimony and proceedings in the court shall be paid by the litigants to official reporters and official reporters pro tempore as otherwise provided by law. In all cases where by law the court may direct the payment of transcription fees out of the county treasury, such fees shall, upon order of the court, be paid from the general fund including fees for transcription of testimony and proceedings in criminal cases as provided in Sections 69947 to 69953, inclusive, which shall be paid from the county treasury.

(b) A reporter's fee of eighteen dollars ($18) shall be collected for the court reporter fund, in all applicable situations mentioned in Sections 68090.5, 72055, and 72056, to be paid by each party, or jointly by parties appearing jointly, only once in each such situation in each action or proceeding, and to be otherwise treated and applied as therein provided.

(c) In addition to any fee otherwise required in civil trials that last

longer than one judicial day, a fee equal to the per diem rate for official reporters pro tempore shall be charged per day of service to the parties, on a pro rata basis, for the services of an official reporter for the second and each succeeding day a reporter is required.

(d) In addition to any fee otherwise required, in civil cases in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee equal to the per diem rate for official reporters pro tempore for each day of service rendered by the second reporter, for the first and each successive day of trial.

(e) All parties shall deposit their pro rata share of such fees with a clerk at the beginning of the second and each succeeding day's court session.

(f) The fees shall be taxed as costs in favor of any party paying the fees and to whom costs are awarded by the judgment of the court. The fee is not subject to Section 6103.

73347. The official reporters of the court shall be members of any retirement system maintained by the county. For the purposes of that retirement system, the salary provided for reporters in this article shall be deemed their entire compensation.

The official reporter shall perform the duties required of him or her by law. When not actually engaged in the performance of any other duty imposed on him or her by law, he or she shall render stenographic or clerical assistance, or both, to the judge or judges of the district to which he or she is assigned as the judge or judges may direct.

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Thirty-three thousand five hundred four dollars ($33,504).

Step 2. Thirty-six thousand two hundred forty dollars ($36,240).

Step 3. Thirty-eight thousand fifty-two dollars ($38,052).

Step 4. Thirty-nine thousand nine hundred sixty dollars ($39,960).

Step 5. Forty-one thousand nine hundred sixty-four dollars ($41,964).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint a court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has the experience and qualifications to entitle that individual to the higher initial step, and if the higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. Official reporters shall advance to the next higher step on the salary plan annually. The compensation of each official reporter pro tempore shall be at a rate which is the equivalent of the daily wage of the second step in the salary range for full-time official reporters in Contra Costa County for each day the reporter actually is on duty under order of the court which per diem rate shall apply when an

official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him or her by law, he or she shall render stenographic or clerical assistance to the judge of the court to which he or she is assigned as the judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. The adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk and clerk (experienced level). Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate specified in subdivision (a) for the days he or she actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

73349. Except as otherwise provided in this article, all paid employments of any municipal court and the marshal's office now established or which may subsequently be established in Contra Costa County shall be under the merit system established in the county. The merit board of the county shall exercise the same jurisdiction over municipal court employments as it exercises over other county employments in the same manner as they apply to other merit system employments in the Contra Costa County service.

In the event that one or more eligibles are not certified to a vacancy within six months of the date the position became vacant, or of the date of receipt of an examination request, whichever is later, the appointing authority may fill the vacancy by appointing any candidate who meets the minimum qualifications for the class as set forth in the class specification. The appointee shall thereby obtain merit system status as described above.

73350. Except as otherwise provided in this article, all employments of any municipal court and the marshal's office now established or which may be established in Contra Costa County shall be compensated and receive other benefits in accordance with the provisions of the salary ordinance of the county governing other county employments. Any subsequent change in benefits provided by the salary ordinance to employees of the county shall apply equally to employees of the municipal courts and marshal's office and shall have the same effective date. These benefits may also be retroactively applied. References hereafter to range allocation and

salary steps apply to the basic salary schedule set forth in Section 73352.

Within range step increases shall be granted only upon the affirmative recommendation of the appointing authority.

Overtime payments must bear the same approval as within range step increases.

Clerk-administrators who are retitled district court managers shall receive all management benefits allocated to the former class, including car allowance.

73351. There are the following classes of positions into which each of the positions of the municipal courts shall be assigned as prescribed in the section pertaining to each court:

(a) Deputy clerk entry level, which shall include all municipal court employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk-experienced level, which shall include all municipal court employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-senior level, which shall include all municipal court employments assigned complex clerical work involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of case records using manual and automated systems.

(f) Deputy clerk-specialist level, which shall include all municipal court employments assigned clerical duties of a complex administrative nature, requiring exercise of initiative and discretion in work organization, methods, and priorities and which may include lead direction of a work section.

(g) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(h) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(i) Court operations coordinator, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and being responsible

for court operations in the absence of the district court manager. Chief deputy clerks holding such position on January 1, 1988, shall be retitled court operations coordinator (Schedule II).

(j) District court manager, which shall include any municipal court position charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties. Clerk-administrators holding such position on January 1, 1988, shall be retitled district court manager (Schedule A in a court with five through seven judges; Schedule B in a court with two through four judges). Whenever a vacancy occurs in the position of district court manager the new appointee shall be compensated at Schedule C.

(k) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

(*l*) Executive secretary, which shall be assigned to serve as the confidential secretary to the county municipal court administrator.

(m) Deputy clerk-senior data entry operator, which shall include all municipal court employments assigned to complex data entry activities of a varied nature. Positions of this class may assign and review the work of several deputy clerks-data entry operator I or II.

(n) County municipal court administrator, which shall be responsible for the overall administration of all municipal court judicial districts in the county.

(o) Assistant county municipal court administrator, which shall be responsible for assisting in the overall administration of all municipal court judicial districts in the county and may act for the county municipal court administrator in his or her absence.

(p) Municipal court systems specialist, which shall be responsible for managing the development, implementation and enhancement of court systems.

(q) Municipal court fiscal officer, which shall be responsible for planning, reviewing and coordinating fiscal and accounting activities of the county's municipal courts.

The board of supervisors may create a new class or classes by specifying the number of positions for each new class and the compensation therefor, provided that the new class or classes shall be effective only until January 1 of the second year following the calendar year in which the classes are created.

73351.5. Each position in the marshal's office shall be assigned to one of the following classes, as prescribed in Section 73353.5:

(a) Deputy clerk II, which shall include employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and for which supervision is available on a periodic basis only.

(b) Marshal's process clerk, which shall include all employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods, and priorities and for which supervision is available only on policy matters. Positions of this class may assign and review the work of

several deputy clerks II.

(c) Secretary, advanced level, which shall include one position assigned to serve as the confidential secretary to the marshal.

(d) Supervising process clerk, which shall include all employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes, and supervises the work of several deputy clerks II and marshal's process clerks.

(e) Marshal's clerical supervisor, which shall include all employments assigned responsibility for planning, organizing, and directing the clerical activities of the marshal's office, including the supervision of clerical staff.

(f) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain POST-approved peace officer status.

(g) Deputy marshal, which shall include all employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(h) Deputy marshal sergeant, which shall include any position responsible for assigning and reviewing the work of several deputy marshals in serving court process and other peace officer activities.

(i) Assistant marshal, which shall include any position responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(j) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

73352. Whenever reference is made to a numbered salary level in any section of this article, the salary schedule applicable to equivalent employees of Contra Costa County as set forth in Section 73354 shall apply. If the board of supervisors adopts a revised salary schedule for equivalent county employees, the new schedule shall apply equally to municipal courts and conversion to the new schedule shall be effected for employees of the municipal courts in the same manner and on the same date as for county employees, but any adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

Class Title	Salary Schedule	Pay Level
Deputy clerk-beginning level	C5-0996	1231-1495
Deputy clerk-experienced level	C5-1136	1415-1720
Deputy clerk-senior level	XB-1308	1600-2042
Deputy clerk-specialist level	XB-1380	1719-2195
Deputy clerk-DEO I	C5-1094	1357-1649
Deputy clerk-DEO II	C5-1191	1495-1817
Deputy clerk-senior DEO	C5-1264	1608-1954
Deputy clerk-courtroom clerk	C5-1544	2127-2586
Deputy clerk-division supervisor	C5-1576	2196-2670
Court operations coordinator-I	C5-1748	2608-3170
Court operations coordinator-II	C5-1845	2874-3493
District court manager-A	C5-2175	3997-4858
District court manager-B	C5-2065	3581-4352
District court manager-C	C5-1894	3018-3668
Executive secretary	C1-1552	2606 F
Municipal court systems specialist	C5-1814	2786-3386
Municipal court fiscal officer	C5-1853	2897-3521
Assistant county municipal court administrator	C5-2065	3581-4352
County municipal court administrator	C1-2336	5706 F

73353.5. Classes of positions provided in Section 73351.5 are allocated to the salary schedule, as follows:

Class Title	Class Code	Pay Level
Deputy clerk II	C5-1136	1415-1720
Deputy marshal recruit	C1-1246	1920
Marshal's process clerk	XB-1301	1668-2130
Secretary-advanced	TD-1085	1764-2203
Process supervisor	XB-1527	1991-2542
Deputy marshal	C5-1665	2401-2918
Deputy marshal sergeant	C5-1811	2778-3376
Marshal	C3-2171	4389-4839
Assistant marshal	C5-2075	3616-4396

73354. Certain classifications in the municipal courts are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts shall be adjusted a commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but the adjustment shall be effective only until January 1 of the second year following the

calendar year in which the adjustment is made.

(a) The individual court class and equivalent county class or relationship are as follows:

Court Class	Equivalent County Class
Deputy clerk-entry	Clerk-entry
Deputy clerk-experienced	Clerk-experienced
Deputy clerk-senior	Clerk-senior
Deputy clerk-specialist	Clerk-specialist
Deputy clerk-DEO I	Data entry operator I
Deputy clerk-DEO II	Data entry operator II
Deputy clerk-senior DEO	7.5% above data entry operator II
Municipal court reporter	Superior court reporter
Deputy clerk-courtroom clerk	17.8% above clerk-specialist

(b) The municipal court classes listed below are designated management classes and are deemed equivalent in job and salary level to management classes in the service of Contra Costa County. Whenever the board of supervisors adjusts county management classes salary, municipal court management classes shall be adjusted a commensurate number of levels on the salary schedule. In no event shall the salary of deputy clerk-division supervisors be less than 26 salary levels above the salary of deputy clerk-courtroom clerk nor shall the salary adjustments allocated to the following positions (excluding deputy clerk-division supervisor) be less than the percentage of adjustment allocated to deputy clerk-division supervisor:

Management Positions:

Deputy clerk-division supervisor
Court operations coordinator I or II
District court manager-A
District court manager-B
District court manager-C
Executive secretary
Municipal court systems specialist
Municipal court fiscal officer
Assistant county municipal court administrator
County municipal court administrator

(c) For commissioners appointed prior to July 1, 1985, the class of court commissioner shall be allocated to a five-step salary schedule, in five percent incremental steps with the fifth step equivalent to 85 percent of the salary of a superior court judge in the County of Contra Costa. For commissioners appointed on and subsequent to July 1, 1985, the class of court commissioner shall be allocated to a three-step salary schedule, in 5 percent incremental steps with the third step equivalent to 85 percent of the salary of a municipal court judge in the County of Contra Costa. Upon appointment, a new court

commissioner shall be allocated to the first step of the schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

73354.5. Certain classifications in the marshal's office are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the marshal's office shall be adjusted to commensurate number of levels on the salary schedule. The adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but those adjustments shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk II is equivalent to clerk (experience level).

(b) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of marshal's process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(c) The class of deputy marshal-recruit is equivalent in job and salary level to the class of deputy sheriff-recruit in the service of Contra Costa County.

(d) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County.

(e) The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County.

(f) The class of assistant marshal shall be allocated to a salary level which is 67 levels on the C5 salary schedule above that of lieutenant in the service of Contra Costa County.

(g) The class of marshal shall be allocated to a salary level which is 8 levels on the C3 salary schedule above that of assistant marshal.

(h) The class of supervising process clerk shall be allocated to a salary level which is 147 salary levels on the salary schedule above that of marshal's process clerk.

(i) The class of secretary (advanced level) is equivalent in salary level to secretary, (advanced level), in the service of Contra Costa County.

(j) The class of marshal's clerical supervisor shall be allocated to a salary level which is 213 salary levels on the salary schedule above that of marshal's process clerk.

73355. There shall be one county municipal court administrator for Contra Costa County who shall serve as the clerk of the court for each judicial district and shall be appointed by a majority of the municipal court judges of Contra Costa County. Except as provided in Section 73356, the county municipal court administrator shall appoint all other employments in the municipal court offices of the

judicial districts in Contra Costa County.

73356. Certain classifications in the municipal courts are excluded from the merit system.

(a) A majority of the municipal court judges in Contra Costa County shall appoint the county municipal court administrator, whose position shall be exempt from the merit system. The county municipal court administrator shall serve at the pleasure of the judges, and may be removed by a majority of the municipal court judges at their discretion.

(b) A majority of the municipal court judges in Contra Costa County shall appoint the marshal, whose position shall be exempt from the merit system. The marshal, who shall serve at the pleasure of the judges, may be removed by a majority of the municipal court judges in their discretion. The marshal shall be the appointing authority for all other employments in the marshal's office.

(c) Appointment to the classification of court commissioner shall be made in accordance with Section 73362.

(d) The county municipal court administrator shall appoint the assistant county municipal court administrator who shall be exempt from the merit system and who shall serve at the discretion of the county municipal court administrator.

73357. In Contra Costa County, the following positions are authorized:

(a) One marshal.

(b) Two assistant marshals.

(c) Four deputy marshal sergeants.

(d) Thirty deputy marshals or deputy marshal-recruits, not to exceed a combined total of 30 positions at any one time.

(e) One secretary (advanced level).

(f) Three supervising process clerks.

(g) One marshal's clerical supervisor.

(h) Fifteen marshal's process clerks or deputy clerks II, not to exceed a combined total of 15 positions at any one time.

(i) Fifty deputy marshal keepers, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which the services are rendered. Deputy marshal keepers serving under the provisions of this subdivision are not salaried employees of the judicial districts for purposes of obtaining merit system status or any other benefits of this article.

73358. The total number of positions authorized for operation of municipal courts in Contra Costa County is as follows:

Class Title	Number of Positions
Deputy clerk-(deep class), including beginning, experienced, senior, and specialist levels	204
Deputy clerk-DEO I or II	23
Deputy clerk-senior DEO	4
Deputy clerk-courtroom clerk	16
Deputy clerk-division supervisor	15
Court operations coordinator I or II	4
District court manager-A	1
District court manager-B	2
District court manager-C	1
Executive secretary	1
Municipal court systems specialist	1
Municipal court fiscal officer	1
Assistant county municipal court administrator	1
County municipal court administrator	1

73362. Municipal court judicial districts in the County of Contra Costa may have no more than four court commissioners for all districts in total. Commissioners shall be appointed by a majority of the judges of the court or courts, or by the presiding judge in a two-judge court, to which the court commissioner is appointed. Commissioners shall serve at the pleasure of the majority of the judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may be removed by a majority of the judges in their discretion. Within the jurisdiction of the court or courts and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and any additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

73363. (a) Upon the adoption of a resolution by the board of supervisors finding that there are sufficient funds available in the budget for a particular municipal court district and acknowledging that the judges of that district have determined the business of the court requires such occasional service, there shall be one position of temporary court commissioner to serve that municipal court district.

(b) A temporary court commissioner shall be appointed by the presiding judge of the court from a list of temporary court commissioners established and approved by a majority of the judges of that court. The number of temporary commissioners shall be such

that each temporary commissioner serves on the bench an average of at least three days in each month, and the presiding judge shall assure that all temporary commissioners maintain current knowledge of the court's personnel and procedures. The court shall periodically review the performance of each temporary commissioner and shall maintain an ongoing training program to maintain their skills. Each temporary commissioner shall possess the same qualifications the law requires of a municipal court judge, and shall have completed an orientation program satisfactory to the presiding judge, including a review of the procedures and practices of the court, together with observation of each particular calendar to which the commissioner may be assigned, and shall not engage in the private practice of law before any court of the municipal court to which he or she is appointed, and is subject to disqualification as provided for judges.

(c) A temporary court commissioner shall receive, as sole compensation for such service, an hourly fee for each hour or fraction of an hour of service which is equivalent of the hourly wage of the first step in the salary range for full-time official municipal court commissioners in Contra Costa County, without any other benefit included in the compensation of any other municipal court officer or employee in Contra Costa County.

(d) A temporary court commissioner shall perform those functions conferred by law and assigned by the presiding judge. Before any action or proceeding is tried or heard by a temporary court commissioner, any party to, or any attorney appearing in, the action or proceeding shall, however, be entitled to require, by oral or written motion without notice, that the action or proceeding be reassigned or transferred, whereupon the action or proceeding shall be reassigned or transferred as promptly as possible to a judge, court commissioner, or referee of the court. The court shall, prior to the commencement of any such trial or hearing, provide notice to each party or attorney of record in the action or proceeding of this entitlement to require reassignment or transfer.

73364. Approval of the board of supervisors shall be obtained prior to filling any such position in Section 73357, 73358, or 73362 which has never been filled.

73365. If an increase in the business of the court or any other emergency requires a greater number of employees for the prompt and faithful discharge of the business of the court than the number expressly provided by law or requires the performance of duties of positions in the lowest salary bracket where all such positions have been filled, with the approval of the judge in a single-judge district, the presiding judge in a two-judge district, and the majority of the judges in a three-or-more-judge district, and in all cases with the approval of the board of supervisors, the county municipal court administrator or the marshal may appoint as many additional deputies as are needed. The additional deputies shall be appointed at the entrance level classification and shall be selected in the same

manner as those for whom express provision is made, and they shall receive compensation on the basis of the hourly equivalent to the base rate of pay as provided in the salary schedule in the same amount as the lowest salary bracket provided for such class of employee. Employees may continue in those positions not longer than 90 days after the adjournment of the next regular session of the Legislature.

73366. Except as provided in this article, all persons serving as permanent employees of the municipal courts or marshal's office shall be assigned to the positions authorized in this article in accordance with the duties and responsibilities of their position classifications. The assignments shall be made by the appointing authority in accordance with the rules under the merit system.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1117

An act to amend Section 2127 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 2127 of the Streets and Highways Code is amended to read:

2127. (a) (1) Except in the case of a city or county which has made an election pursuant to paragraph (2) or (3) of this subdivision, in order to receive any allocation pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, the city or county, as the case may be, shall expend for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year that it receives an allocation pursuant to Section 2126 or that Section 7 not less than its base year expenditure, excluding the allocation received pursuant to Section 2126 or that Section 7, or both, during the fiscal year.

(2) A city or county may elect to expend during the two fiscal years that it receives an allocation, a total amount which is not less than twice the amount of its base year expenditure.

(3) A city may elect to expend during the two fiscal years that it receives an allocation and the following fiscal year, a total amount which is not less than three times the amount of its base year expenditure. This paragraph shall apply only to the Cities of

Bakersfield, El Segundo, Novato, San Mateo, San Rafael, Santa Maria, Seal Beach, and Westminster. For the purposes of this paragraph, either actual expenditures or funds encumbered by contractual obligations in the 1987–88 fiscal year shall qualify as expenditures in the year after allocations are received.

Any city, except the Cities of Bakersfield, El Segundo, Novato, San Rafael, and Santa Maria, making an election pursuant to paragraph (2) or (3) shall so notify the Controller by December 31, 1987, and a city or county which fails to do so shall be governed by paragraph (1) of this subdivision.

This subdivision does not apply to a city or a county, including a city which filed a notice with the Controller pursuant to subdivision (g), with a population of 10,000 or less, as most recently determined by the Department of Finance.

(b) The amount allocated to a city or a county, as the case may be, shall be expended by October 30, 1988.

(c) (1) For purposes of this section, "base year expenditure" means the amount that the city or county, as the case may be, expended for patching, overlay, and sealing, and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151. Any city or county, with a population of 100,000 or less as of October 1, 1986, which filed a notice with the Controller pursuant to subdivision (g), may elect to have its "base year expenditure" determined on the basis of its 1983–84 fiscal year expenditures. A city or county making this election shall so notify the Controller by December 31, 1987, and the election shall not be available to a city or county which does not so notify the Controller.

(2) If the sum of the revenue received by a city or county during the fiscal year pursuant to Section 500 of Title 16, Section 104(b) (2) and (6) and Sections 125 and 144 of Title 23, and Chapter 68 (commencing with Section 5121) of Title 42 of the United States Code, and from the federal Community Block Grant Program, the federal Revenue Sharing Program, and transit assistance funds from the Transportation Planning and Development Account, which was expended for the maintenance and reconstruction of its local street and highway system during the 1984–85 fiscal year, as reported to the Controller pursuant to Section 2151, is more than the sum of funds it received from those sources during any fiscal year, the base year expenditure of the city or county, as the case may be, for the fiscal year shall be reduced by the difference between the sums. For purposes of this paragraph, "revenue received" means that percentage of the project expenditures or the maximum reimbursable amount of eligible project costs as agreed upon by the federal government and the local agency for those projects eligible under this paragraph.

(d) For each fiscal year during which an allocation was made pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985, or both, the Controller shall audit the amount each county

and city expended for the maintenance and reconstruction, as defined in subdivision (d) of Section 2126, of its local street and highway system during the fiscal year. For amounts allocated to counties and cities for expenditure by October 30, 1988, the audit shall be completed by October 30, 1990.

(e) (1) If the Controller determines pursuant to subdivision (d) that a county or city, for the fiscal year, expended for the maintenance and reconstruction of its local street and highway system less than the required amount determined pursuant to subdivision (a) or (b), its allocation pursuant to Section 2104 or 2107, as the case may be, shall be reduced during the next fiscal year by the amount that its expenditure is less than the required amount, but the amount of the reduction shall not exceed the amount allocated to the city or county in each fiscal year that the city or county received funds pursuant to Section 2126 or Section 7 of Chapter 1600 of the Statutes of 1985.

(2) Paragraph (1) does not apply to a city or county during the fiscal year in which it returns to the Controller the allocation it received pursuant to Section 2126 or that Section 7, or both. The city or county shall return the allocation plus any accrued interest within 30 days after receipt of the allocation.

(f) Any funds withheld or returned as a result of subdivision (e) shall be reallocated to the other counties and cities whose expenditure is not less than its required amount pursuant to subdivision (b) or (c) of Section 2126, as the case may be.

(g) In the case of a city or county which on or before October 1, 1986, files with the Controller a written notice declaring the inability of the city or county to comply with the matching requirement of subdivision (a), the Controller shall postpone the penalty provisions of paragraph (1) of subdivision (e) and shall not reallocate the funds, as provided for by subdivision (f), until September 1, 1987. The notice to the Controller shall contain all of the following:

(1) The amount of 1984–85 base year matching requirements as determined by the Controller's audit.

(2) The amount the local entity will fall short of the base year matching requirement.

(3) The reasons why the city or county is unable to meet the base year matching requirement.

(4) The amounts expended by the local entity on patching, overlay, sealing, and reconstruction of its street and highway system in fiscal years 1981–82, 1982–83, and 1983–84.

The Controller shall, by November 1, 1986, transmit to the Chairpersons of the Senate and Assembly Transportation Committees and the Joint Legislative Budget Committee the information submitted by counties and cities in the written notices provided for in this subdivision.

CHAPTER 1118

An act to amend Sections 11410, 12001, and 12003 of and to add and repeal Section 12001.5 of, the Food and Agricultural Code, relating to pest control.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11410 of the Food and Agricultural Code is amended to read:

11410. "Agricultural pest control adviser" means any person who offers a recommendation on any agricultural use, who holds himself or herself forth as an authority on any agricultural use, or who solicits services or sales for any agricultural use.

SEC. 2. Section 12001 of the Food and Agricultural Code is amended to read:

12001. No person shall act, or offer to act, as an agricultural pest control adviser without first having secured an agricultural pest control adviser license from the director. Officials of federal, state, and county departments of agriculture and University of California personnel engaged in official duties relating to agricultural use are exempt from this section when any recommendation by any of these persons as to a specific application on a specific parcel is in writing. Officials of districts formed pursuant to Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code are exempt from this section when any recommendation by any of these persons as to specific application on a specific parcel is in writing. However, this exemption for officials of districts does not apply to persons otherwise required to be licensed pursuant to this division. Federal, state, and county officials who are not employed in a department of agriculture are exempt from this section until January 1, 1990, when a recommendation by any of these persons as to a specific application on a specific parcel is in writing.

SEC. 3. Section 12001.5 is added to the Food and Agricultural Code, to read:

12001.5. (a) The director may adopt, by regulation, alternative minimum criteria based on education or technical experience for applicants for an agricultural pest control adviser license. These alternative minimum qualifications shall apply only to persons who, at the time of license application, are officials of federal, state, or county departments other than agriculture.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 4. Section 12003 of the Food and Agricultural Code is amended to read:

12003. Agricultural pest control advisers shall put all recommendations concerning any agricultural use in writing. One copy of each such written recommendation shall be signed and dated and shall be furnished to the operator of the property prior to the application. Where a pesticide use is recommended a copy shall also be furnished to the dealer and the applicator prior to the application.

Each written recommendation shall include, when applicable, the following:

(a) The name and dosage of each pesticide to be used or description of method recommended.

(b) The identity of each pest to be controlled.

(c) The owner or operator, location of and acreage to be treated.

(d) The commodity, crop, or site to be treated.

(e) The suggested schedule, time, or conditions for the pesticide application or other control method.

(f) A warning of the possibility of damages by the pesticide application that reasonably should have been known by the agricultural pest control adviser to exist.

(g) The signature and address of the person making the recommendation, the date, and the name of the business such person represents.

(h) Any other information the director may require.

SEC. 5. (a) The Agricultural Pest Control Advisory Committee in the Department of Food and Agriculture shall make a study as to whether or not persons employed by districts formed pursuant to Chapter 4 (commencing with Section 5780) of Division 5 of the Public Resources Code should be required to be qualified to make recommendations in accordance with statutes and regulations regarding pesticides.

(b) The committee shall consult with, and consider comments on this subject from, at least all of the following organizations:

(1) The California Argicultural Production Consultants Association.

(2) The California Association of Recreation and Park Districts.

(3) The California Park and Recreation Society.

(c) The committee shall report its findings to the Director of Food and Agriculture by January 1, 1990.

CHAPTER 1119

An act to add Section 199.221 to the Health and Safety Code, and to add Section 1768.9 to the Welfare and Institutions Code, relating to AIDS.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 199.221 is added to the Health and Safety Code, to read:

199.221. Actions taken pursuant to Section 1768.9 of the Welfare and Institutions Code shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21. In addition, the requirements of subdivision (a) of Section 199.22 shall not apply to testing performed pursuant to Section 1768.9 of the Welfare and Institutions Code.

SEC. 2. Section 1768.9 is added to the Welfare and Institutions Code, to read:

1768.9. (a) Notwithstanding any other provision of law, a person under the jurisdiction of the Department of the Youth Authority is obligated to submit to a blood test for evidence of antibodies to the probable causative agent of AIDS upon a determination of the chief medical officer of the facility that clinical symptoms of AIDS or AIDS-related complex, as recognized by the Centers for Disease Control, is present in the person. In the event that a person under the jurisdiction of the department refuses to submit to such a test, the department may seek a court order to require the inmate or ward to submit to the test.

(b) Prior to ordering a test pursuant to subdivision (a), the chief medical officer shall ensure that the subject of the test receives pretest counseling. The counseling shall include:

(1) Testing procedures, effectiveness, reliability, and confidentiality.

(2) The means of transmission of HIV.

(3) Symptoms of AIDS and AIDS-related complex.

(4) Precautions to avoid transmission.

The chief medical officer shall also encourage the subject of the test to undergo voluntary testing prior to ordering a test.

(c) The following procedures shall apply to testing conducted under this section:

(1) The withdrawal of blood shall be performed in a medically approved manner. Only a physician, registered nurse, licensed vocational nurse, licensed medical technician, or licensed phlebotomist may withdraw blood specimens for the purposes of this section.

(2) The chief medical officer shall order that the blood specimens be transmitted to a licensed medical laboratory which has been

approved by the State Department of Health Services for the conducting of AIDS testing, and that tests, including all readily available confirmatory tests, be conducted thereon for medically accepted indications of exposure to or infection with HIV.

(3) The subject of the test shall be notified face-to-face as to the results of the test. The chief medical officer shall also ensure that the subject of the test receives posttest counseling.

(d) All counseling and notification of test results shall be conducted by a physician and surgeon, registered nurse, or certified health educator, or by a psychologist, licensed clinical social worker, or trained volunteer counselor under the purview of a physician and surgeon, registered nurse, or certified health educator.

(e) The Youth Authority may operate separate housing facilities for wards and inmates who have tested positive for HIV infection and who continue to engage in activities which transmit HIV. These facilities shall be comparable to those of other wards and inmates with access to recreational and educational facilities, commensurate with the facilities available in the institution.

(f) The Youth Authority shall provide medical services appropriate for the diagnosis and treatment of those infected with HIV.

(g) Notwithstanding any other provision of law, the chief medical officer of a facility of the Department of the Youth Authority may do all of the following:

(1) Disclose positive results of a blood test for evidence of antibodies to the probable causative agent of AIDS to the superintendent or administrator of the facility where the test subject is confined.

(2) When test results are positive, inform the test subject's known sexual partners or needle contacts in a Youth Authority facility of the positive results, provided that the test subject's identity is kept confidential. All wards and inmates who are provided with this information shall be provided with the counseling described in subdivision (b).

(3) Include the test results in the subject's confidential medical record which is to be maintained separate from other case files and records.

(h) Actions taken pursuant to this section shall not be subject to subdivisions (a) to (c), inclusive, of Section 199.21 of the Health and Safety Code. In addition, the requirements of subdivision (a) of Section 199.22 of the Health and Safety Code shall not apply to testing performed pursuant to this section.

CHAPTER 1120

An act to add Sections 72764, 72765, 72766, 72767, 72771, 72772, 72773, 72774, 72778, 72779, 72780, 72781, 72782, 72783, and 72784 to the Government Code, relating to courts.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 72764 is added to the Government Code, to read:

72764. The court administrator of the Beverly Hills Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 2. Section 72765 is added to the Government Code, to read:

72765. The court administrator of the Burbank Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 3. Section 72766 is added to the Government Code, to read:

72766. The court administrator of the Citrus Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 4. Section 72767 is added to the Government Code, to read:

72767. The court administrator of the Compton Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 5. Section 72771 is added to the Government Code, to read:

72771. The court administrator of the Glendale Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 6. Section 72772 is added to the Government Code, to read:

72772. The court administrator of the Inglewood Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 7. Section 72773 is added to the Government Code, to read:

72773. The court administrator of the Long Beach Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 8. Section 72774 is added to the Government Code, to read:

72774. The court administrator of the Los Cerritos Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 9. Section 72778 is added to the Government Code, to read:

72778. The court administrator of the Pomona Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 10. Section 72779 is added to the Government Code, to read:

72779. The court administrator of the Rio Hondo Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 11. Section 72780 is added to the Government Code, to read:

72780. The court administrator of the Santa Anita Municipal

Court District shall hold office at the pleasure of the judges of that court.

SEC. 12. Section 72781 is added to the Government Code, to read:

72781. The court administrator of the Santa Monica Municipal Court District shall hold office at the pleasure of the judges of that court.

This section applies to vacancies occurring on or after January 1, 1989.

SEC. 13. Section 72782 is added to the Government Code, to read:

72782. The court administrator of the South Bay Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 14. Section 72783 is added to the Government Code, to read:

72783. The court administrator of the Southeast Municipal Court District shall hold office at the pleasure of the judges of that court.

SEC. 15. Section 72784 is added to the Government Code, to read:

72784. The court administrator of the Whittier Municipal Court District shall hold office at the pleasure of the judges of that court.

CHAPTER 1121

An act to amend Section 11010.2 of the Business and Professions Code, relating to subdivision public reports.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 21, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 11010.2 of the Business and Professions Code is amended to read:

11010.2. (a) As used in this section:

(1) "Quantitative" means the number and type of documents required to make the filing substantially complete, as defined in the regulations of the commissioner, without regard to the content of those requirements.

(2) "Qualitatively complete" means that all deficiencies and substantive inadequacies contained in the documents which were required to make the filing substantially complete have been corrected.

(3) "Substantially complete" means that a notice and application contain all requirements as set forth in the regulations of the commissioner.

(b) Upon receipt of a notice of intention pursuant to Section 11010 and an application for issuance of a public report, the commissioner shall review the notice and application to determine if the notice and application are substantially complete, with respect to quantitative requirements. The commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and

application.

(1) If the notice and application are not substantially complete with respect to the quantitative requirements pursuant to this subdivision, the notification shall specify the information needed to make the notice and application substantially complete. Upon receipt of any resubmittal of a notice and application, the commissioner shall notify the applicant in writing of that determination within 10 days of receipt of the notice and application.

(2) If the commissioner determines that the notice and application are substantially complete with respect to the quantitative requirements pursuant to this subdivision, the commissioner shall provide the applicant with a list of all deficiencies and substantive inadequacies necessary for the notice and application to be qualitatively complete, within 60 days of that determination in the case of subdivisions specified in Section 11000.1, 11000.5, or 11004.5, and within 20 days of that determination, in the case of other subdivisions.

(c) Upon receipt of all documents, materials, writings, and other information submitted in response to the list in paragraph (2) of subdivision (b), the commissioner shall notify the applicant whether the notice and application are qualitatively complete within 30 days in the case of subdivisions specified in Section 11000.1, 11000.5, or 11004.5, and within 20 days of receipt, in the case of other subdivisions. If the application and notice are not qualitatively complete, the notification shall include a list of any remaining deficiencies and substantive inadequacies. Upon receipt of any resubmittal of documents, materials, writings, and other information in response to a list of any remaining deficiencies and substantive inadequacies, the commissioner shall provide notification within the time limits specified in this subdivision.

(d) The commissioner shall issue a public report within 15 days, in the case of a subdivision specified in Section 11000.1, 11000.5, or 11004.5, or 10 days, in the case of other subdivisions, after the notice and application are determined to be qualitatively and substantially complete, and submittal of recorded or filed instruments and evidence of financial arrangements required by the commissioner.

(e) The commissioner shall adopt regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, which define "substantially complete" and which list all the requirements necessary for a notice of intention and application to be considered "substantially complete".

(f) The commissioner may adopt emergency regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, to, as set forth below, increase those time periods specified in subdivisions (b), (c), and (d), upon a showing that the number of notices of intention and applications for a subdivision public report filed with the department for any immediately preceding six-month period has increased by more than 15 percent over the monthly average number of notices

and applications filed for the base period commencing July 1, 1983, and ending June 30, 1986:

(1) The time for issuing the notice provided in subdivision (b) shall increase to 15 days.

(2) The time for providing the listing required by paragraph (2) of subdivision (b) shall increase to 90 days in the case of subdivisions specified in Sections 11000.1, 11000.5, and 11004.5 and to 30 days for other subdivisions.

(3) The time period provided in subdivision (c) for responding to receipt of documents intended to correct deficiencies shall be 30 days without regard to the type of subdivision being processed.

(4) The time periods provided in subdivision (d) within which the commissioner is required to issue a public report in the case of subdivisions specified in Sections 11000.1, 11000.5 and 11004.5, shall increase to 30 days and in the case of other subdivisions shall increase to 15 days.

This section does not apply to filings made exclusively under Section 11010.1. Nothing in this section requires the commissioner to issue a public report where grounds for denial exist, provided that issuance of a public report shall not be denied for inadequate information if the cause thereof is the commissioner's failure to comply with this section.

Notwithstanding other provisions of this section, the commissioner shall not be required to issue a public report if grounds for denial exist under Section 11018 or 11018.5. However, the commissioner may not base the denial of a public report on the lack of adequate information if the commissioner has not acted within the time periods prescribed in this section.

CHAPTER 1122

An act relating to the Public Utilities Commission, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Public Utilities Commission shall investigate the nature of problems associated with metallic balloons which, if released, may contact and short-circuit electrical power lines causing disruption of service, and shall report thereon to the Legislature on or before January 31, 1990, with its findings and recommendations to mitigate the problem.

(b) The commission shall require electrical corporations to report, to the extent feasible, to the commission every other month during 1989 on electrical service disruptions caused by balloons

including, but not limited to, the general location of the service disruption; whether the disruption was caused by a latex balloon, metallized balloon, metallized ribbon, or nonmetallized string or ribbon, and the means employed by the corporation in determining whether the disruption was caused by a released balloon. The commission shall permit manufacturers of balloons to examine these reports.

(c) The report of the commission shall include, but not be limited to, a consideration of the number of service disruptions occuring during 1989 found and determined to have been caused by balloons, or balloon string or ribbon, the general locations of the service disruptions, the durations of the service disruptions, and a summary of all service disruptions by general category.

(d) The commission shall prepare and make available to all interested persons a draft report and shall accept written comments thereon. The commission's final report shall include the written comments submitted under this subdivision.

(e) No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 2. The sum of sixty-one thousand five hundred dollars ($61,500) is hereby appropriated to the Public Utilities Commission from the Public Utilities Commission Utilities Reimbursement Account in the General Fund for costs incurred in carrying out Section 1 of this act.

CHAPTER 1123

An act to amend Section 17557 of the Government Code, relating to state-mandated local costs.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 17557 of the Government Code is amended to read:

17557. If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 60 days of adoption of a statement

of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 60-day period at any time prior to its adoption of the parameters and guidelines and for any length of time the commission specifies. If proposed parameters and guidelines are not submitted within the 60-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 60-day period is justified. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred, provided, however, that the commission shall not specify therein any fiscal year for which payment could be provided in the annual Budget Act. A test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

CHAPTER 1124

An act to add Section 13105.2 to the Health and Safety Code, relating to health.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 21, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 13105.2 is added to the Health and Safety Code, to read:

13105.2. (a) The State Fire Marshal shall establish and operate a statewide hazardous materials training facility to be located at the Del Valle Firefighting Facility of the County of Los Angeles.

(b) Subdivision (a) shall be operative in any fiscal year only to the extent funds are appropriated in the annual Budget Act for the purpose of subdivision (a). Of those funds so appropriated, only that portion of the state funds matched by private funds, on a ratio of one-to-one, may be expended by the State Fire Marshal for the purpose of subdivision (a).

CHAPTER 1125

An act to amend Section 5697.5 of, and to add Sections 5704.8 and 5704.9 to, the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that dependents of the court, as described pursuant to Section 300, are not receiving adequate treatment services.

The Legislature further finds and declares that the appropriate state department responsible for services to dependent children should provide the funding for those services, so that funding for basic maintenance support should be provided by the State Department of Social Services, education services should be funded by the State Department of Education, and mental health treatment services should be funded by the State Department of Mental Health.

SEC. 2. Section 5697.5 of the Welfare and Institutions Code is amended to read:

5697.5. When the director of mental health in a county is notified pursuant to Section 319.1 or 635.1, or Section 7572.5 of the Government Code about a specific case, the county mental health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, including a third-party payor, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If appropriate treatment is not available within the county's Short-Doyle program, nothing in this section shall prevent the court from ordering treatment directly or through a family's private resources.

SEC. 3. Section 5704.8 is added to the Welfare and Institutions Code, to read:

5704.8. When a court has referred a minor, pursuant to Section 319.1, for assessment pursuant to Section 5697.5, the requirements of Section 5697.5 concerning access to, and assessment of, appropriate mental health treatment services shall apply.

SEC. 4. Section 5704.9 is added to the Welfare and Institutions Code, to read:

5704.9. The State Department of Mental Health shall conduct a study concerning minors referred by the juvenile courts to the county mental health director for assessment and services pursuant to Sections 319 1 and 5697.5. The department shall report the results of its study to the Legislature by July 1, 1990. The study shall include, but not be limited to, the following:

(a) The number of children referred in calendar year 1989 and the nature of their problems.

(b) The number of those children, pursuant to assessment, who required mental health services of any type.

(c) The nature and costs of those services.

(d) Whether the services were provided through the county Short-Doyle program, through other county or state funding, through the minor's family resources or through a third-party payor.

(e) The number of the referred children for whom mental health services could not be provided under the Short-Doyle program within six months of the assessment.

SEC. 5. This act is declaratory of existing law and is not intended to impose a new program or higher level of service upon any local agency. It is intended, however, that this restatement of existing law should focus attention upon dependents of the court, as described pursuant to Section 300 of the Welfare and Institutions Code, and engender a renewed sense of commitment to meeting their mental health treatment needs.

CHAPTER 1126

An act to amend Section 46202 of the Education Code, relating to education.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 46202 of the Education Code is amended to read:

46202. (a) Except as otherwise provided in this section, in any fiscal year, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982–83 fiscal year, the Superintendent of Public Instruction shall in that fiscal year reduce that district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size, multiplied by the district's units of average daily attendance.

(b) The provisions of subdivision (a) shall not apply to the Pleasant Valley Elementary School District in Ventura County for grades 7 and 8 prior to November 4, 1983.

(c) Any school district which operated an experimental kindergarten program during the 1982–83 school year, and which terminated the experimental program at the end of the 1982–83 school year, may offer in the 1983–84 fiscal year the amount of kindergarten instructional time it offered prior to operating the experimental program without incurring the penalty specified in subdivision (a).

(d) The provisions of subdivision (a) shall not apply to the Glendora Unified School District during the first semester of the 1983–84 fiscal year for grades 6 to 8, inclusive, at the middle school level, and for grades 9 to 12, inclusive, at the high school level. The Glendora Unified School District shall reinstate the sixth period, which shall be equivalent to at least 50 minutes of instruction, effective the start of the second semester of the 1983–84 fiscal year.

(e) The provisions of subdivision (a) shall not apply to the Windsor Elementary School District in Sonoma County during the 1983–84 fiscal year for grade 3 if the district maintains at least 255 minutes of instructional time per day at that grade level.

(f) The provisions of subdivision (a) shall not apply during the first semester of the 1983–84 school year to any school district which had a collective bargaining agreement signed prior to July 28, 1983, which requires a reduction in instructional time, provided the school district meets the 1982–83 school year level of instructional time for the second semester of the 1983–84 school year.

(g) (1) Subdivision (a) shall not apply to the Loma Prieta Joint Union Elementary School District in Santa Clara County for developmental kindergarten classes conducted in that district in the 1987–88 fiscal year and each fiscal year thereafter, if the district maintains at least 36,000 minutes of instructional time in those classes.

(2) For purposes of this subdivision, "developmental kindergarten classes" means those classes conducted only for children who show weaknesses in one or more of the following developmental areas:

(A) Physiological development.

(B) Social maturity.

(C) Emotional maturity.

(D) Language and communication skills.

SEC. 2. Due to the unique circumstances concerning the Loma Prieta Joint Union Elementary School District, the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

CHAPTER 1127

An act to add Section 18050.7 to the Health and Safety Code, relating to mobilehomes.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 18050.7 is added to the Health and Safety Code, to read:

18050.7. In addition to any other requirements imposed by this part or regulations of the department, on and after January 1, 1989, the department shall not grant an initial dealer's license to any person who has not satisfied all of the following education and experience requirements:

(a) The applicant either shall have held a valid salesperson's license for at least two years within the five-year period immediately preceding the application for an initial dealer's license, or shall meet any of the following criteria:

(1) Has acquired a four-year degree from an accredited college or university.

(2) Has held a valid salesperson's license for one year in the past three years and acquired an associate of arts or associate of science degree from an accredited college.

(3) Has been the officer of the corporation, owner or partner of, or has held a management position relating to finance, marketing, administration, or general management with, a manufacturer of manufactured housing in any state for two years within the five years immediately preceding application for an initial dealer's license.

(4) Holds a management position with a housing authority, redevelopment agency, or nonprofit housing corporation which is developing individual lots, a subdivision, or a park for the placement of manufactured homes or mobilehomes.

(5) Has been an escrow, title, or loan officer of a land title company, bank, savings and loan association, or mortgage company in a capacity directly related to financing or conveying title to manufactured housing for two years within the five years immediately preceding application for an initial dealer's license.

(6) Has been a subdivider, developer, or contractor in any state during which time the applicant developed or sold 10 lots or the equivalent, for two years within the five years immediately preceding application for an initial dealer's license.

(7) Has been the officer of a corporation, the owner or partner of a mobilehome park or mobilehome park management company in any state for at least two years within the five years immediately preceding the application for an initial dealer's license.

(8) Has held a dealer's license from a state other than California

for at least four years within the five years immediately preceding the application for an initial dealer's license, and has completed 24 hours of continuing education class in California, in addition to the continuing education requirement of subdivision (b).

(b) The applicant shall have met the applicable preliminary education requirements for the salesperson's license under paragraph (5) of subdivision (b) of Section 18056.2.

(c) The department may adopt regulations, as necessary, to implement this section.

CHAPTER 1128

An act to amend Section 7012 of, and to add Section 4610 to, the Civil Code, relating to family law.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 4610 is added to the Civil Code, to read:

4610. No parent shall be awarded custody of, or unsupervised visitation with, any child if he or she has been convicted under Section 273a, 273d, or 647.6 of the Penal Code unless the court finds that there is no significant risk to the child.

SEC. 2. Section 7012 of the Civil Code is amended to read:

7012. (a) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this part or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(b) The court may order support payments to be made to the mother, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(c) Willful failure to obey the judgment or order of the court is a civil contempt of the court. All remedies for the enforcement of judgments, including imprisonment for contempt, apply.

CHAPTER 1129

An act to add Section 19799 to the Government Code, and to amend Section 1 of Chapter 845 of the Statutes of 1978, relating to classification of governmental employees.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1 The Legislature finds and declares that persons of Filipino ancestry and national origin are being incorrectly classified as either Spanish surname or Asian in the personnel surveys of the state and that the categorization unfairly discriminates against those persons in the operation of the state's affirmative action and equal employment opportunity programs. Therefore, it is the intent of the Legislature that any survey or statistical tabulation conducted by the state to identify the racial or ethnic characteristics of its employees shall separately identify persons of Filipino ancestry or national origin.

SEC. 2. Section 19799 is added to the Government Code, to read:

19799. When any state agency conducts any survey as to the ancestry or ethnic origin of state civil service employees, or maintains any statistical tabulation of minority group employees, it shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in the survey or tabulation.

SEC. 3. Section 1 of Chapter 845 of the Statutes of 1978 is amended to read:

Section 1. The Legislature finds and declares that persons of Filipino ancestry and national origin are being incorrectly classified as either Spanish surname or Asian in the personnel surveys of city and county employees and that such categorization unfairly discriminates against those persons in the operation of state, city, or county government's affirmative action and equal employment opportunity programs. Therefore, it is the intent of the Legislature that any survey or statistical tabulation conducted by a city, county, or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin, according to the last federal census, to identify the racial or ethnic characteristics of its employees shall separately identify persons of Filipino ancestry or national origin. It is the further intent of the Legislature that affirmative action programs or funds shall include equitable allocations based on the percentages of Filipinos in local governments in the State of California.

CHAPTER 1130

An act to amend Section 924 of the Insurance Code, relating to insurance, and making an appropriation therefor.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 924 of the Insurance Code is amended to read:

924. The commissioner shall collect the sum of three hundred thirty-six dollars ($336) from any admitted insurer that fails to make and file in the commissioner's office within the time prescribed by law any statements or stipulations required by this code. After the first month, the commissioner shall also collect an additional penalty of four hundred four dollars ($404) for each and every month or fractional part of a month thereafter that the insurer continues to transact the business of insurance until those statements and stipulations are filed.

CHAPTER 1131

An act to amend Section 473 of the Code of Civil Procedure, relating to judgments.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 473 of the Code of Civil Procedure is amended to read:

473. The court may, in furtherance of justice, and on such terms as may be proper, allow a party to amend any pleading or proceeding by adding or striking out the name of any party, or by correcting a mistake in the name of a party, or a mistake in any other respect; and may, upon like terms, enlarge the time for answer or demurrer. The court may likewise, in its discretion, after notice to the adverse party, allow, upon such terms as may be just, an amendment to any pleading or proceeding in other particulars; and may upon like terms allow an answer to be made after the time limited by this code.

When it appears to the satisfaction of the court that such amendment renders it necessary, the court may postpone the trial, and may, when such postponement will by the amendment be rendered necessary, require, as a condition to the amendment, the payment to the adverse party of such costs as may be just.

The court may, upon such terms as may be just, relieve a party or his or her legal representative from a judgment, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for such relief must be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and must be made within a reasonable time, in no case exceeding six months, after such judgment, order or proceeding was taken; provided, however, that, in the case of a judgment, order or other proceeding determining the ownership or right to possession of real or personal property, without extending the six-months period, when a notice in writing is personally served within the State of California both upon the party against whom the judgment, order or other proceeding has been taken, and upon his or her attorney of record, if any, notifying said party and his or her attorney of record, if any, that such order, judgment or other proceeding was taken against him or her and that any rights said party has to apply for relief under the provisions of Section 473 of the Code of Civil Procedure shall expire 90 days after service of said notice, then such application must be made within 90 days after service of such notice upon the defaulting party or his or her attorney of record, if any, whichever service shall be later. No affidavit or declaration of merits shall be required of the moving party. Notwithstanding any other requirements of this section, the court shall, whenever an application for relief is timely, in proper form, and accompanied by an attorney's sworn affidavit attesting to his or her mistake, inadvertence, surprise or neglect, vacate any resulting default judgment entered against his or her client unless the court finds that the default was not in fact caused by the attorney's mistake, inadvertence, surprise, or neglect. The court shall, whenever relief is granted based on an attorney's affidavit of fault, direct the attorney to pay reasonable compensatory legal fees and costs to opposing counsel or parties.

Whenever the court grants relief from default judgment based on any of the provisions of this section, the court may: (1) impose a penalty of no greater than one thousand dollars ($1,000) upon an offending attorney or defaulting party, (2) direct that an offending attorney pay an amount no greater than one thousand dollars ($1,000) to the State Bar Client Security Fund or (3) grant such other relief as is appropriate.

The court may, upon motion of the injured party, or its own motion, correct clerical mistakes in its judgment or orders as entered, so as to conform to the judgment or order directed, and may, on motion of either party after notice to the other party, set aside any void judgment or order.

CHAPTER 1132

An act to amend Sections 131.1 and 2556 of, to amend and renumber Sections 2550, 2550.1, 2551, 2552, 2553, 2554, and 2555 of, and to add Sections 2550, 2551.5, and 2559 to, the Streets and Highways Code, and to amend Section 9250.10 of the Vehicle Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 131.1 of the Streets and Highways Code is amended to read:

131.1. Upon the request of any service authority for freeway emergencies that has imposed additional fees on vehicles pursuant to Section 9250.10 of the Vehicle Code, the department may contract with the authority for the installation, operation, and maintenance of motorist call boxes on portions of the California Freeway and Expressway System within the county. The service authority shall reimburse the department for all costs incurred under this section.

SEC. 2. Section 2550 of the Streets and Highways Code is amended and renumbered to read:

2551. (a) A service authority for freeway emergencies may be established in any county if the board of supervisors of the county and the city councils of a majority of the cities within the county having a majority of the population of cities within the county adopt resolutions providing for the establishment of the authority.

(b) The resolutions may designate the county transportation commission for the county, created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, as the service authority for freeway emergencies. The powers of a commission so designated are limited to those of the service authority.

(c) The Metropolitan Transportation Commission may function as the service authority for freeway emergencies in any or all of the Counties of Santa Clara, San Mateo, Alameda, Contra Costa, Marin, Solano, Sonoma, Napa, and the City and County of San Francisco upon adoption of a resolution by the commission to act as a service authority and upon ratification of the commission's resolution in a particular county by the board of supervisors of the city and county or by the board of supervisors of the county and by the city councils of the cities within the county having a majority of the population of the cities within the county.

(d) As used in this chapter, "authority" and "service authority" mean a service authority for freeway emergencies created pursuant to this chapter.

SEC. 3. Section 2550 is added to the Streets and Highways Code, to read:

2550. The Legislature declares that its intent in enacting this chapter is to encourage the placement of call boxes along the California Freeway and Expressway System to enable motorists in need of aid to obtain assistance. However, it is not intended that a motorist aid system of call boxes be considered an emergency telephone system.

SEC. 3.5. Section 2551.5 is added to the Streets and Highways Code, to read:

2551.5. The board of supervisors, and the city councils of the cities in the county, may authorize the members of the service authority to receive for each attendance at meetings of the service authority, and for each day any member is engaged in authorized service authority business other than attendance at meetings of the service authority, the maximum sum of one hundred dollars ($100), but not to exceed five hundred dollars ($500) in any calendar month, and to be allowed their actual and necessary expenses incurred in the discharge of their duties.

SEC. 4. Section 2550.1 of the Streets and Highways Code is amended and renumbered to read:

2552. When the Metropolitan Transportation Commission functions as the service authority for two or more counties, the revenues which it receives pursuant to Section 9250.10 of the Vehicle Code, after retention of amounts necessary to reimburse the commission for its reasonable and necessary administrative costs, shall be expended for implementation, maintenance, and operation of a motorist aid system within those counties. The amount expended for each of those counties shall be in the same proportion as the revenues generated within the county bears to the total revenues received by the commission. Expenditures may be made in a county in addition to revenues proportionately generated if the expenditures are approved by all of the donor county representatives on the service authority.

SEC. 5. Section 2551 of the Streets and Highways Code is amended and renumbered to read:

2553. An authority, other than the Metropolitan Transportation Commission or a county transportation commission designated pursuant to Section 2551, shall have seven members, with two members selected by the board of supervisors and five members selected jointly by the city councils of cities within the county.

When the Metropolitan Transportation Commission functions as a service authority, it shall consist of all the members of the commission as set forth in Section 66503 of the Government Code.

SEC. 6. Section 2552 of the Streets and Highways Code is amended and renumbered to read:

2554. An authority may contract and may undertake any act convenient or necessary to carry out this chapter and any other law relating to the authority.

SEC. 7. Section 2553 of the Streets and Highways Code is amended and renumbered to read:

2555. An authority may impose a fee, not to exceed one dollar ($1) per year, on vehicles registered in the county pursuant to Section 9250.10 of the Vehicle Code.

SEC. 8. Section 2554 of the Streets and Highways Code is amended and renumbered to read:

2557. (a) Except as provided by subdivision (c), the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used for the implementation, maintenance, and operation of a motorist aid system of call boxes, including the lease or lease-purchase of facilities and equipment for the system, on the portions of the California Freeway and Expressway System and a county expressway system, and on state highway routes that connect segments of these systems, which are located within the county in which the authority is established and over which the Department of the California Highway Patrol has law enforcement responsibility. The Department of Transportation and the Department of the California Highway Patrol shall each review and approve plans for implementation of a motorist aid system proposed for any state highway route and shall be reimbursed by the service authority for all costs incurred.

(b) An authority or any other public entity may construct and maintain, and lease or lease-purchase on terms and conditions it deems appropriate, the facilities of a motorist aid system or it may contract with a private person or entity to do so.

(c) If leases or lease-purchase agreements are entered into pursuant to subdivision (a), or if revenue bonds are issued and sold pursuant to Section 2558, the moneys received by each authority pursuant to subdivision (b) of Section 9250.10 of the Vehicle Code shall be used to the extent necessary to make lease payments or to pay the principal of, and interest on, the amount of bonded indebtedness outstanding, as the case may be. Facilities and equipment acquired through the expenditure of proceeds from the sale of those bonds shall have a useful life at least equal to the term of the bonds.

SEC. 9. Section 2555 of the Streets and Highways Code is amended and renumbered to read:

2558. (a) Subject to subdivision (b), a service authority may issue revenue bonds pursuant to Chapter 6 (commencing with Section 54300) of Division 2 of Title 5 of the Government Code, or Chapter 5 (commencing with Section 4950) of Part 3 of Division 5 of the Health and Safety Code, as nearly as practicable, for the implementation and maintenance of a motorist aid system of call boxes and shall pledge revenues to be received from fees referred to in Section 2555 as security for the payment of principal or of interest or other amounts due on those revenue bonds. In addition, a service authority which has entered into one or more leases or lease-purchase agreements for facilities of a motorist aid system may

also pledge, as security for the payment of amounts due under the lease or agreements, revenues to be received from those fees. The pledge of revenues provided for in this subdivision shall be a first and prior lien and, without any action other than the adoption by the members of a resolution providing for the pledge, the lien of the pledge shall attach and become perfected as to each fee imposed pursuant to Section 9250.10 of the Vehicle Code as and when the fee becomes due and payable. However, if a service authority has, at the same time, existing obligations under one or more issues of revenue bonds, one or more leases or lease-purchase agreements, or both, the respective priorities of the liens of pledges of revenue shall be determined on the basis of the respective dates on which resolutions providing for those pledges were adopted, with the highest priority being accorded the pledge of revenues provided for in the earliest of those resolutions. Bond proceeds shall not be used for operation of a motorist aid system of call boxes.

(b) A service authority may issue revenue bonds for each county within its jurisdiction only during the two-year period immediately following the start of the collection of a fee imposed pursuant to Section 2555 for that county.

SEC. 10. Section 2556 of the Streets and Highways Code is amended to read:

2556. An existing service authority established by any of the counties or the city and county enumerated in subdivision (c) of Section 2551 may be merged into a service authority established by the Metropolitan Transportation Commission.

SEC. 11. Section 2559 is added to the Streets and Highways Code, to read:

2559. It is a misdemeanor for any person to remove, damage, interfere with the use of, or obstruct any motorist aid call box provided pursuant to this chapter without the consent of the authority.

A person convicted under this section may be required by the court to pay to the service authority the costs of repairing or replacing the call box, in addition to any other penalty.

SEC. 13. Section 9250.10 of the Vehicle Code is amended to read:

9250.10. (a) In addition to any other fees specified in this code and the Revenue and Taxation Code, any additional fees imposed by a service authority for freeway emergencies pursuant to Section 2555 of the Streets and Highways Code shall be paid to the department at the time of registration or renewal of registration of every vehicle subject to registration under this code in the subject counties, except those vehicles that are expressly exempted under this code from the payment of registration fees.

(b) After deducting its administrative costs, the department shall distribute the additional fees collected pursuant to subdivision (a) to the authority in the county in which they were collected.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Existing law provides for the financing of motorist aid systems through service authorities for freeway emergencies with a view to promoting highway safety. However, without the protection contained in this act, the service authorities may be unable to undertake financing since investors would be concerned that the limited resources of the service authorities could be diverted from the payment of debt service or lease payments and would be limited only to services. Further, the use of call boxes promotes highway safety and that use should be encouraged by criminal sanctions for interference with call boxes and by reasonable compensation for members of the service authority. Accordingly, it is necessary that this act go into immediate effect.

CHAPTER 1133

An act to amend Section 68071 of the Government Code, relating to courts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 68071 of the Government Code is amended to read:

68071. No rule adopted by a superior, municipal, or justice court shall take effect until the January 1 or July 1, whichever comes first, following the 30th day after it has been filed with the Judicial Council and the clerk of the court, and made immediately available for public examination. However, the court may specify an earlier effective date if the presiding judge certifies to the Judicial Council that it is necessary for the rule to take effect earlier.

CHAPTER 1134

An act to add Section 290.3 to, and to add and repeal Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 of, the Penal Code, relating to crime.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 290.3 is added to the Penal Code, to read:

290.3. Every person convicted of a violation of any offense listed in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation of the underlying offense, be punished by a fine of one hundred dollars ($100) upon the first conviction or a fine of two hundred dollars ($200) upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

Out of the moneys deposited with the county treasurer pursuant to this section, there shall be transferred, once a month, to the Controller for deposit in the General Fund, an amount equal to all fines collected during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested or convicted of, an offense listed in Section 290. Moneys deposited in the General Fund pursuant to this section shall, when appropriated by the Legislature and until July 1, 1994, be used for the purposes of Chapter 10 (commencing with Section 13890) of Title 6 of Part 4.

SEC. 2. Chapter 10 (commencing with Section 13890) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 10. SERIOUS HABITUAL OFFENDER PROGRAM

13890. The Legislature hereby finds that a substantial and disproportionate amount of serious sex offenses are committed against the people of California by a relatively small number of multiple and repeat sex offenders. In enacting this chapter, the Legislature intends to support efforts of the criminal justice community through a focused effort by law enforcement and prosecuting agencies to identify, locate, apprehend, and prosecute serious habitual sex offenders.

13891. The Attorney General shall, subject to the availability of funds, establish in the Department of Justice a Serious Habitual Offender Program pilot project, which is hereby created, which shall evaluate the number of arrests and convictions for sex offenses and the length of sentences for repeat offenders. This pilot project shall operate for five years in the following counties: San Francisco, San Mateo, Santa Clara, Santa Cruz, Alameda, Contra Costa, Napa,

Sonoma, Solano, and Marin.

13891.1. As used in this chapter, "serious habitual sex offenders" mean those persons who have been either of the following: (a) convicted of two or more violent offenses against a person involving force or violence which include at least one sex offense and reside in the Serious Habitual Offender Program pilot project area; or (b) convicted of an offense listed in Section 290 of the Penal Code, reside in the Serious Habitual Offender Program pilot project area, and also meet one of the following criteria:

(1) Have three or more felony arrests for sex offenses prescribed in Section 290 on their criminal record.

(2) Have five or more felony arrests for any type of offense on their criminal record.

(3) Have 10 or more arrests (either felony or misdemeanor) for any type of offense on their criminal record.

(4) Have five or more arrests (either felony or misdemeanor) for any type of offense, including (A) at least one conviction for multiple sex offenses (a conviction arising from the commission of two or more offenses listed in subdivision (a) of Section 290 in one transaction), or including (B) at least two arrests for a single sex offense listed in subdivision (a) of Section 290 of the Penal Code.

13891.2. The Department of Justice shall establish and maintain a comprehensive file of existing information maintained by law enforcement agencies, the Department of Corrections, the Department of Motor Vehicles, and the Department of Justice. The Department of Justice may request the Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies to provide existing information from their files regarding persons identified as serious habitual sex offenders. The Department of Corrections, the Department of Motor Vehicles, and law enforcement agencies shall, when requested by the Department of Justice, provide copies of existing information maintained in their files regarding persons identified by the Department of Justice as serious habitual sex offenders and provide followup information to the Department of Justice as it becomes available. This serious habitual sex offender file shall be maintained by the Department of Justice and shall contain a complete physical description and method of operation of the serious habitual sex offender, information describing his or her interaction with criminal justice agencies, and his or her prior criminal record. The Department of Justice shall also prepare a summary profile of each serious habitual sex offender for distribution to law enforcement agencies.

13891.3. The Department of Justice shall provide a summary profile of each serious habitual sex offender to each law enforcement agency in the pilot project area when the individual registers in the pilot project area or moves to the pilot project area.

Upon request, the department shall provide the complete file of information on a serious habitual sex offender to law enforcement agencies, district attorneys, and the courts in the pilot project area

for the purpose of identifying, apprehending, prosecuting, and sentencing serious habitual sex offenders.

13892. The Attorney General shall establish an advisory committee to assist in the implementation and operation of the Serious Habitual Offender Program. The committee shall provide recommendations to the Department of Justice related to the operating policies of the Serious Habitual Offender Program, training needs for local law enforcement agencies and prosecutors in implementing the program, and the possible expansion of the pilot project to a statewide program. Members on the committee shall serve at the pleasure of the Attorney General without compensation, except for travel and per diem expenses, in accordance with applicable law. The advisory committee shall be comprised of 12 members who shall be appointed by the Attorney General and who shall include the following persons:

(a) One member from the California Peace Officers' Association.

(b) One member from the California District Attorneys' Association.

(c) One member from the Department of Justice.

(d) One member from the Department of Corrections.

(e) One member from the Department of Motor Vehicles.

(f) One member from a district attorney's office in the pilot project area.

(g) Four members from law enforcement agencies in the pilot project area.

(h) One member from a professional organization involved in implementing the Serious Habitual Offender Program, including, but not limited to, the Juvenile Officers' Association, Bay Area Crime Analysts, and Sexual Assault Investigators' Association.

(i) One member from the California Public Defenders Association.

The Serious Habitual Offender Program shall provide staff assistance to the advisory committee. The chairperson of the advisory committee shall be selected by the members of the committee.

13893. On or before July 1, 1994, the Attorney General shall submit a written report to the Legislature containing the following information:

(a) A summary of the pilot project operation, activities, and cost.

(b) A quantifiable evaluation of the success of the pilot project based on comparisons with counties not participating in the pilot project and considering the following factors:

(1) The number of arrests and convictions for sex offenses.

(2) The number of requests by law enforcement and prosecuting agencies for information or assistance from the Serious Habitual Offender Program.

(3) The number of serious habitual offenders identified as suspects in unsolved sexual assault cases.

(4) The number of cases in which assistance from the Serious

Habitual Offender Program was instrumental in the arrest, conviction, or enhanced sentencing of persons identified as serious habitual offenders.

(c) The potential cost and impact of a statewide serious habitual sex offender program.

13894. This chapter shall become operative on July 1, 1989, shall become inoperative on July 1, 1994, and, as of January 1, 1995, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1995, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1135

An act to amend Sections 14141, 14146, 14147, and 14148 of, to repeal and add Section 14142 of, and to repeal Sections 14143, 14144 and 14145 of, the Corporations Code, relating to small business development, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 14141 of the Corporations Code is amended to read:

14141. There is hereby created in the State Treasury, as part of the California Economic Development Grant and Loan Fund created pursuant to Section 15327 of the Government Code, the Hazardous Waste Reduction Loan Account, for the sole purpose of receiving state, federal, or local government money, and other public or private money for expenditure by the Department of Commerce for the purposes of this article. The funds deposited in the Hazardous Waste Reduction Loan Account are hereby continuously appropriated to the Department of Commerce, notwithstanding Section 13340 of the Government Code. The state is not liable or obligated beyond the state money which is allocated and deposited in the Hazardous Waste Reduction Loan Account and is appropriated for these purposes.

SEC. 2. Section 14142 of the Corporations Code is repealed.

SEC. 3. Section 14142 is added to the Corporations Code, to read:

14142. (a) The money in the Hazardous Waste Reduction Loan Account shall be expended by the Department of Commerce to make loans to generators for equipment, projects, or facilities to be used for the reduction of hazardous waste generated.

(b) The Department of Commerce may enter into a contract with an urban development corporation or a rural development corporation to provide services pursuant to this article and may expend the funds in the Hazardous Waste Reduction Loan Account resulting from interest accruing from interest payments on loans made pursuant to this article or from the interest earned by the Hazardous Waste Reduction Loan Account to compensate an urban development corporation or a rural development corporation for these services.

(c) The Department of Commerce may expend an amount of not more than one hundred and thirty thousand dollars ($130,000) in any fiscal year for administrative expenses in carrying out this article, from the funds in the Hazardous Waste Reduction Loan Account derived from interest accruing from interest payments by the borrower or interest earned in the account.

(d) The Department of Commerce may also transfer an amount not to exceed two hundred thousand dollars ($200,000) from the Hazardous Waste Reduction Loan Account to a subaccount from which the department may pay for collection costs in connection with defaulted loans.

SEC. 4. Section 14143 of the Corporations Code is repealed.

SEC. 5. Section 14144 of the Corporations Code is repealed.

SEC. 6. Section 14145 of the Corporations Code is repealed.

SEC. 7. Section 14146 of the Corporations Code is amended to read:

14146. The State Department of Health Services shall, before a loan commitment is issued, approve the project to be funded.

SEC. 8. Section 14147 of the Corporations Code is amended to read:

14147. The State Department of Health Services and the Department of Commerce shall publicize and promote the availability of loan assistance pursuant to this article.

SEC. 9. Section 14148 of the Corporations Code is amended to read:

14148. The Department of Commerce may expend an amount up to, but not greater than, thirty thousand dollars ($30,000) from the earnings of the Hazardous Waste Reduction Loan Account for allocation to the board to adopt regulations to implement the direct lending authorized by this article. The board shall adopt these regulations as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law

to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed within 180 days after their effective date unless the agency complies with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code pursuant to subdivision (e) of Section 11346.1 of the Government Code.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide funding for hazardous waste reduction loan guarantees, and thereby protect public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1136

An act to amend Section 99233.2 of, and to add Sections 130050.1, 130054.1, and 130109.1 to, the Public Utilities Code, relating to transportation.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 99233.2 of the Public Utilities Code is amended to read:

99233.2. (a) Except as provided in subdivisions (b) and (c), there shall be allocated to the transportation planning agency, if it is statutorily created, such sums as it may approve, up to 3 percent of annual revenues, for the conduct of the transportation planning and programming process, unless a greater amount is approved by the director.

(b) In those areas that have a county transportation commission created pursuant to Section 130050, up to 1 percent of annual revenues shall be allocated to the commission in Los Angeles County, up to 2 percent of the annual revenues shall be allocated to the commissions in Riverside and San Bernardino Counties, and up to 3 percent of annual revenues shall be allocated to the commission in Orange County for the transportation planning and programming process. In addition, up to three-fourths of 1 percent of annual revenues, but not more than one million dollars ($1,000,000) per year, shall be allocated to the multicounty designated transportation planning agency, as defined in Section 130004, for the transportation planning and programming process. No operator shall grant any funds it receives under this chapter to the designated multicounty transportation planning agency for the purposes of the agency

carrying out its responsibilities under Division 12 (commencing with Section 130000).

(c) In Ventura County, 1 percent of the annual revenues shall be allocated to the Ventura County Transportation Commission for the transportation planning and programming process.

SEC. 2. Section 130050.1 is added to the Public Utilities Code, to read:

130050.1. There is hereby created the Ventura County Transportation Commission. The commission shall be the successor agency to the Ventura County Association of Governments and shall assume all assets and liabilities of that association.

Notwithstanding Section 180050, the Board of Supervisors of Ventura County may designate the commission as the authority to carry out the provisions of Division 19 (commencing with Section 180000).

SEC. 3. Section 130054.1 is added to the Public Utilities Code, to read:

130054.1. (a) The Ventura County Transportation Commission shall consist of seven voting members and one nonvoting member appointed as follows:

(1) Two members of the Ventura County Board of Supervisors appointed by that board.

(2) Three members appointed by the Ventura County City Selection Committee, who shall be mayors or city council members serving within Ventura County.

(3) One citizen member appointed by the Ventura County Board of Supervisors, who shall not be an elected official, but who shall be a resident of Ventura County.

(4) One citizen member appointed by the Ventura County City Selection Committee, who shall not be an elected official, but who shall be a resident of Ventura County.

(5) One nonvoting member appointed by the Governor.

(b) The appointing authority specified in paragraphs (1), (2), (3), and (4) of subdivision (a) may appoint alternate members to the commission to represent, on a temporary basis, regular members they have appointed.

(c) The following applies to alternate members:

(1) With respect to alternate members appointed for the members specified in paragraph (1) of subdivision (a), the alternate members shall be other members of the board of supervisors.

(2) With respect to alternate members appointed for the members specified in paragraph (2) of subdivision (a), the alternate members shall be other mayors or city council members serving within Ventura County.

(3) With respect to an alternate member appointed for the member specified in paragraph (3) of, and the member specified in paragraph (4) of, subdivision (a), the alternate member shall not be an elected official but shall be a resident of Ventura County.

(d) (1) Except as provided in paragraph (2), the members of the

commission shall serve terms of four years and until their successors are appointed and qualified.

(2) For the initial members of the commission, one member appointed under paragraphs (1), (2), and (4) of subdivision (a) shall be appointed for a two-year term. Thereafter, persons appointed as those members shall be appointed to a four-year term. All other members shall be appointed for a four-year term.

(3) The term of any member serving on the commission as a result of holding another public office shall terminate when the member ceases holding the other public office and a new member has been properly seated.

(4) Vacancies occurring shall be filled by the appointing authority for the unexpired term.

SEC. 4. Section 130109.1 is added to the Public Utilities Code, to read:

130109.1. Upon creation of the Ventura County Transportation Commission, and on the effective date of a contract with the Board of Administration of the Public Employees' Retirement System, existing balances in the Ventura County Association of Governments Account in the Public Employees' Retirement Fund shall be transferred to the commission's account in that fund.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1137

An act to amend Section 12303.4 of the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 12303.4 of the Welfare and Institutions Code, as added by Chapter 319 of the Statutes of 1988, is amended to read:

12303.4. For the period July 1, 1988, to June 30, 1990, inclusive, Sections 12303.5 and 12304 shall not be operative and the following shall apply:

(a) (1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), and who is not described in Section 12304, shall receive services under this article which do not exceed the maximum

of 195 hours per month in the individual provider mode of service delivery. In no event shall recipients experience a reduction in the number of hours they were receiving during the month of June 1988, without a reassessment of need.

(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 195 hours times the statewide wage rate per hour for the individual provider mode as calculated by the department and by dividing this product by the hourly cost of the mode of service to be provided.

(b) (1) Any aged, blind, or disabled individual who is eligible for assistance under this chapter or Chapter 4 (commencing with Section 12500), who is in need, as determined by the county welfare department, of at least 20 hours per week of the services specified in subdivision (e) of Section 12304, shall be eligible to receive services under this article, the total of which shall not exceed a maximum of 283 hours per month in the individual provider mode of service delivery. In no event shall recipients experience a reduction in the number of hours they were receiving during the month of June 1988, without a reassessment of need.

(2) Recipients served in modes of delivery other than the individual provider mode shall be limited in the maximum number of service hours per month to 283 hours times the statewide wage per hour for the individual provider as calculated by the department and dividing this product by the hourly cost rate of the mode of service to be provided.

This section shall remain operative only until July 1, 1990, and as of January 1, 1991, is repealed, unless a later enacted statute extends or repeals that date.

SEC. 2. No reimbursement is provided in this act pursuant to Section 6 of Article XIII B of the California Constitution because funding will be provided in the annual Budget Act to cover any costs that may be incurred in carrying on any program and performing any service required to be carried on or performed by this act.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to maintain current levels of in-home supportive services to recipients, it is necessary that this act take effect immediately.

CHAPTER 1138

An act to amend Sections 21661, 21662, 21663, 21664, and 21665 of, and to add Sections 21669 and 21669.1 to, the Business and Professions Code, and to add Section 6073.1 to the Revenue and Taxation Code, relating to swap meets.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 21661 of the Business and Professions Code is amended to read:

21661. As used in this article:

(a) "Swap meet" means any event:

(1) At which two or more persons offer personal property for sale or exchange; and

(2) At which a fee is charged for the privilege of offering or displaying personal property for sale or exchange; or

(3) At which a fee is charged to prospective buyers for admission to the area where personal property is offered or displayed for sale or exchange; or

(4) Regardless of the number of persons offering or displaying personal property or the absence of fees, at which used personal property is offered or displayed for sale or exchange if the event is held more than six times in any 12-month period.

(5) The term "swap meet" is interchangeable and applicable to "flea markets," "indoor swap meets," or other similar terms, regardless of whether these events are held either inside a building or outside in the open. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular course of business.

(b) "Swap meet operator" means any person, partnership, organization or corporation which controls, manages, conducts or otherwise administers a swap meet.

(c) "Vendor" means any person, partnership, organization or corporation who exchanges, sells, or offers for sale or exchange any personal property at a swap meet. A vendor shall be classified according to the following categories:

(1) A "casual vendor" means a vendor who participates in a swap meet three times or less per month.

(2) A "regular vendor" means a vendor who participates in a swap meet four or more times per month.

(3) A "monthly vendor" means a vendor who participates in a swap meet under the terms of a lease of one or more months undertaken with a swap meet operator.

SEC. 2. Section 21662 of the Business and Professions Code is amended to read:

21662. The provisions of this article shall not apply to:

(a) An event held not more than two times per calendar year which is organized for the exclusive benefit of any community chest, fund, foundation, association or corporation organized and operated for religious, educational, hospital or charitable purposes, provided that no part of any admission fee or parking fee charged vendors or prospective purchasers, or the gross receipts or net earnings from the sale or exchange of personal property, whether in the form of a percentage of the receipts or earnings, as salary, or otherwise, inures to the benefit of any private shareholder or person participating in the organization or conduct of the event.

(b) An event at which all of the personal property offered or displayed is new, and all persons selling, exchanging, or offering or displaying personal property for sale or exchange are manufacturers or licensed retail or wholesale merchants.

(c) Any vehicle or trailer.

(d) Any vehicle accessory or vehicle part exclusively for a motor vehicle eligible for vehicle registration under Section 5004 of the Vehicle Code.

SEC. 3. Section 21663 of the Business and Professions Code is amended to read:

21663. (a) Every vendor shall report all personal property offered or displayed for sale or exchange on a form, prescribed or approved by the California Department of Justice, containing all the following information:

(1) The name and address of the vendor.

(2) A description of the personal property offered for sale or exchange, including serial numbers and personal identification marks, or where there is no serial number, other identification marks or symbols, if any, or a general description of the property.

(3) A certification by the vendor that to the vendor's knowledge and belief, the information contained on the form is true.

(4) The make, year, color, state of registration, and license number of the vehicle or vehicles in which the personal property is transported to the swap meet.

(5) The California seller's permit number (State Board of Equalization sales tax number), if any, of the vendor.

(6) The vendor's motor vehicle driver's license number and its state of issuance or California identification card numbers.

(7) If the vendor is an agent of an individual, company, partnership or corporation, the name and business address of the principal.

(8) The dates of sale for which the report is made.

(9) A receipt number given by the swap meet operator for the dates of the sale or the space used by the vendor.

(10) A requirement that the vendor check an appropriate box which sets forth the vendor's permit number for sales tax purposes.

If the vendor's permit number is not listed in the appropriate place on the form, the vendor shall indicate that he or she has not and does

not contemplate making more than two sales of sufficient size, scope, and character within a 12-month period to require a permit.

(b) In addition to the official governmental form, consisting of an original and at least two copies, the information required may be recorded on a computerized or other similar record which contains the same information required by subdivision (a).

(c) In no case shall a swap meet owner or operator be liable or responsible for the accuracy of, or any discrepancy in, any information submitted by the swap meet vendors on the forms provided to them by the swap meet owners or operators.

SEC. 4. Section 21664 of the Business and Professions Code is amended to read:

21664. (a) The swap meet operator shall obtain sufficient blank forms from the Department of Justice at a cost not to exceed the actual cost to the department, or shall cause to be printed and be available sufficient forms approved by the department, for the use of vendors attending the swap meet, and shall distribute them to vendors as needed. The vendor shall submit the completed form to the operator who shall note on the vendor's copy that the vendor has submitted the form. The vendor shall submit the form to the swap meet operator prior to the close of the business day on which the item is to be placed on sale. The swap meet operator shall provide this form required by subdivision (a) of Section 21663 to the chief of police, if the swap meet occurs within the territorial limits of an incorporated city, or the sheriff, if the swap meet occurs outside a city, within 24 hours, or, before the end of the first working day following the swap meet. The original shall also be available to the State Board of Equalization to permit them to detect possible sales tax evasion. The reports shall not be utilized by a chief of police, a sheriff, the Department of Justice, or any other governmental agency for the purpose of providing a permanent record of property ownership, nor shall the information derived from these reports form the basis for any record other than reports which assist in tracing and recovering of stolen property or assist in detecting sales tax evasion.

(b) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he or she is a vendor prior to the close of the business day at which the item is to be placed on sale. Items described in reports previously submitted pursuant to paragraph (2) of subdivision (a) of Section 21663 may be omitted from the description on the forms submitted at subsequent swap meets if the vendor furnishes the swap meet operator of each subsequent swap meet with two copies of the report previously submitted, marked to indicate personal property currently being offered or displayed.

(c) A vendor who regularly offers or displays for sale or exchange any new or used personal property or merchandise shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once

every 60 days. The vendor shall, however, submit a new report at any swap meet at which he or she is a vendor and offers or displays for sale or exchange any personal property not included by generic classification in the previously submitted report. For purposes of this subdivision, a vendor shall be deemed to regularly offer or display for sale or exchange any items of merchandise if such vendor participates for four or more days in a month at a swap meet conducted at the same location. Any vendor claiming to be a regular seller of new or used merchandise under the provisions of this subdivision shall so indicate on the bimonthly report.

(d) Every vendor shall submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 for each swap meet at which he or she is a vendor prior to the business day on which the item is to be placed on sale. A vendor who regularly offers or displays merchandise for sale or exchange shall be required to submit to the swap meet operator the form disclosing the information required by subdivision (a) of Section 21663 only once every six months, provided the vendor has a written agreement with the swap meet operator for a periodic term of one month or longer. All other casual vendors shall submit the form disclosing the information required by subdivision (a) of Section 21663 on each instance of offering merchandise for sale or exchange at the swap meet.

SEC. 5. Section 21665 of the Business and Professions Code is amended to read:

21665. (a) Swap meet operators shall retain a copy of the reports collected by them for six months and shall make such copies available for inspection, upon request, by a peace officer as defined in Section 830.1 or subdivision (a) of Section 830.3 of the Penal Code, or members of the California State Police as defined in subdivision (b) of Section 830.2 of the Penal Code, when the swap meet occurs on state property, or properly identified representatives of the State Board of Equalization or Department of Justice.

(b) Vendors shall have available for inspection during the swap meet a completed copy of the report form which was submitted to the swap meet operator describing the goods offered or displayed for sale or exchange at the swap meet.

SEC. 6. Section 21669 is added to the Business and Professions Code, to read:

21669. (a) All swap meets which are conducted two or more times per calendar year on any premises or property owned or leased by any city, county, city and county, state, or any other local governmental agency, entity, or board, shall comply with all of the following procedures:

(1) The swap meet operator shall have a valid business license.

(2) The swap meet operator shall have a valid California seller's permit number (State Board of Equalization sales tax number), if applicable.

(3) The swap meet operator shall provide the state or local

governmental entities described in this subdivision upon whose property the swap meet is being held, a certificate of insurance certifying that the swap meet operator maintains public liability and property damage insurance for the operation of the swap meet of at least two million dollars ($2,000,000), and that the policy names that governmental entity as an additional insured under the policy.

(4) The swap meet operator shall provide the state or local governmental entity a hold harmless and idemnification agreement for his or her operation of the swap meet and activities and acts arising from that swap meet.

(5) The swap meet operator shall comply with all other provisions of this article relating to swap meets.

(b) State or local governmental entities shall not operate or manage a swap meet for profit in direct competition to a private enterprise, unless they comply with subdivision (a) of Section 21662.

SEC. 7. Section 21669.1 is added to the Business and Professions Code, to read:

21669.1. (a) In addition to the requirements specified in subdivision (a) of Section 21669, all swap meets conducted on the premises or property of a state or local governmental entity which has or expects to have an average daily attendance of 10,000 or more persons shall provide all of the following:

(1) A statement of ownership, including the identity of individuals holding a financial interest of 5 percent or more.

(2) A sworn statement that no individuals who have a financial interest of 5 percent or more in the swap meet have been convicted of any crime involving dishonesty or moral turpitude.

(3) A financial statement showing the operator's financial capability to operate a major swap meet and to meet any financial obligations to the lessor and subcontractors.

(4) A statement that the operator is not knowingly delinquent in any payments owed to a state or local governmental entity and that he or she is not knowingly in violation of any state or local law or ordinance related to public health or safety standards.

(5) Evidence that the operator has a minimum of five years of experience in the management and operation of a swap meet for profit with an average daily attendance of 5,000 or more.

(6) A plan for operations, including security, crowd control, sanitation, and emergency medical response.

SEC. 8. Section 6073.1 is added to the Revenue and Taxation Code, to read:

6073.1. An operator of a swap meet or flea market, as defined in Section 6073, or special event, who verifies that a seller has a valid seller's permit, or who obtains from the seller a certificate that the seller is not offering for sale any item that is taxable under this part and who completes the form requirements of Section 21663 of the Business and Professions Code, shall be deemed to have complied with the requirements of Section 6073. No additional forms will be required by the State Board of Equalization.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1139

An act to add Section 27491.55 to the Government Code and to amend Sections 7104 and 10225 of the Health and Safety Code, relating to death.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 27491.55 is added to the Government Code, to read:

27491.55. In any case where a coroner is required to inquire into a death pursuant to Section 27491, the coroner may delegate his or her jurisdiction over the death to an agency of another county or the federal government when all of the following conditions have been met:

(a) The other agency has either requested the delegation of jurisdiction, or has agreed to take jurisdiction at the request of the coroner.

(b) The other agency has the authority to perform the functions being delegated.

(c) When both the coroner and the other agency have a jurisdictional interest or involvement in the death.

SEC. 2. Section 7104 of the Health and Safety Code is amended to read:

7104. (a) When no provision is made by the decedent, or where the estate is insufficient to provide for interment and the duty of interment does not devolve upon any other person residing in the state or if such person can not after reasonable diligence be found within the state the person who has custody of the remains may require the coroner of the county where the decedent resided at time of death to take possession of the remains and the coroner shall inter the remains in the manner provided for the interment of indigent dead.

(b) A county exercising jurisdiction over the death of an individual pursuant to Section 27491, or who assumes jurisdiction pursuant to Section 27491.55 of the Government Code, shall be responsible for the disposition of the remains of that decedent. If the decedent is an indigent, the costs associated with disposition of the

remains shall be borne by the county exercising jurisdiction.

SEC. 3. Section 10225 of the Health and Safety Code is amended to read:

10225. The physician last in attendance on a deceased person shall state on the certificate of death the disease or condition directly leading to death, antecedent causes, other significant conditions contributing to death and such other medical and health section data as may be required on the certificate; he or she shall also specify the time in attendance, the time he or she last saw the deceased person alive, and the hour and day on which death occurred, except in deaths required to be investigated by the coroner. The physician shall specifically indicate the existence of any cancer as defined in subdivision (e) of Section 211.3, of which the physician has actual knowledge.

A physician may designate, one or more other physicians who have access to the physician's records, to act as agent for the physician for purposes of the performance of his or her duties under this section, provided that any person so designated acts in consultation with the physician.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1140

An act to amend Sections 443.31, 443.33, and 443.46 of the Health and Safety Code, relating to health data.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 443.31 of the Health and Safety Code is amended to read:

443.31. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the office, at the times as the office shall require, all of the following reports on forms specified by the office which shall be in accord where applicable with the systems of accounting and uniform reporting required by this part, except the reports required pursuant to subdivision (g) shall be limited to hospitals:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual fiscal period, and a statement of ancillary utilization and patient census.

(c) A statement detailing patient revenue by payer, including, but not limited to, Medicare, Medi-Cal, and other payers, and revenue center except that hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34 are not required to report revenue by revenue center.

(d) A statement detailing changes in financial position and capital financing status, including, but not limited to, ongoing and new capital expenditures and depreciation.

(e) A statement reporting the information required in subdivisions (a), (b), (c), and (d) for each separately licensed health facility operated, conducted, or maintained by the reporting organization, except those hospitals authorized to report as a group pursuant to subdivision (d) of Section 443.34.

(f) The office shall consult with the County Hospital Committee of the California Hospital Association, the County Supervisors Association of California, and the California Association of Public Hospitals to improve the accuracy of indigent care revenue reporting and shall present legislative or regulatory recommendations for such improvements by March 30, 1985.

(g) A Hospital Discharge Abstract Data Record which includes all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Patient social security number, if it is contained in the patient's medical record.
(6) Admission date.
(7) Source of admission.
(8) Type of admission.
(9) Discharge date.
(10) Principal diagnosis.
(11) Other diagnoses.
(12) External cause of injury.
(13) Principal procedure and date.
(14) Other procedures and dates.
(15) Total charges.
(16) Disposition of patient.
(17) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner. Patient social security numbers and any other data elements that the office believes could be used to determine the identity of an individual patient shall be exempt from the disclosure requirements of the

California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

No person reporting data pursuant to this section shall be liable for damages in any action based on the use or misuse of patient-identifiable data which has been mailed or otherwise transmitted to the office pursuant to the requirements of this subdivision.

A hospital or its designee shall semiannually file the Hospital Discharge Abstract Data Record not later than six months after the end of each semiannual period, commencing six months after January 1, 1986. A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures.

SEC. 2. Section 443.33 of the Health and Safety Code is amended to read:

443.33. (a) The reports required by subdivisions (a), (b), (c), and (d) of Section 443.31 shall be filed with the office within four months after the close of the filing organization's fiscal year and shall be available from the office no later than three months after the date upon which the report was filed.

(b) The reports required by subdivision (g) of Section 443.31 shall be filed semiannually by each hospital or its designee not later than six months after the end of each semiannual period, commencing six months after January 1, 1986, and shall be available from the office no later than six months after the date upon which the report was filed.

(c) The reports referred to in paragraph (2) of subdivision (a) of Section 443.30 shall be filed with the office on the dates required by applicable law and shall be available from the office no later than six months after the date upon which the report was filed.

(d) The office shall make available at cost, to all interested parties, a hard copy of any health facility report referred to in subdivision (a), (b), (c), (d), or (g) of Section 443.31 and in addition to hard copies, shall make available at cost, computer tapes of the health facility reports referred to in subdivision (a), (b), (c), (d), or (g) of Section 443.31, unless the office determines that an individual patient's rights of confidentiality would be violated. In addition, the office shall provide at no cost, one copy of each individual health facility report or a computer tape thereof to each area health planning agency.

SEC. 3. Section 443.46 of the Health and Safety Code is amended to read:

443.46. This part shall remain in effect only until January 1, 1997, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

CHAPTER 1141

An act to amend Section 8254 of the Fish and Game Code, relating to lobster permits.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 8254 of the Fish and Game Code is amended to read:

8254. (a) Lobsters may not be taken for commercial purposes except under a revocable, nontransferable permit subject to regulations adopted by the commission.

(b) Every person who takes, assists in taking, possesses, or transports lobsters while on any boat, barge, or vessel, or who uses or operates or assists in using or operating any boat, net, trap, line, or other appliance to take lobsters, shall have a valid lobster permit issued to that person and shall have that permit in his or her possession while engaged in any of those activities.

(c) Lobster permits may be issued annually by the department and shall be valid for the period of the commercial lobster season. The permit fee is two hundred dollars ($200). However, any person who has had a lobster permit revoked may be required by the commission to appear before it, and no new lobster permit may be issued to that person unless the commission finds that the issuance will be in the best interests of lobster fishing.

CHAPTER 1142

An act to amend Sections 1501.1, 1502, 1506, and 1536.1 of, and to add Sections 1506.5, 1522.6, and 1536.2 to, and to add Article 2.7 (commencing with Section 1529.1) to Chapter 3 of Division 2 of, the Health and Safety Code, and to amend Sections 11400, 11462.4, 11463, 11463.5, and 16514 of the Welfare and Institutions Code, relating to foster care, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that there is a significant shortage of foster families in the state to meet the temporary placement needs of children. Since 1984–85, the number of children in foster care has increased at twice the rate of the

number of participating homes. By the end of 1988–89, there will be nearly 4,000 more children in need of foster family care than the total number of available beds.

The Legislature has provided additional funds to counties to enhance their ability to recruit new foster parents. In addition, legislation was passed in 1986 to authorize nonprofit foster family agencies to recruit, screen, certify, train, and support foster parents.

It is the intent of the Legislature that these public and private efforts not be competitive and that the total number of foster parents be increased. Several provisions of this legislation are intended to preclude counties and foster family agencies from attempting to take over families recruited by the other.

SEC. 2. Section 1501.1 of the Health and Safety Code is amended to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where the placement is in the best interests of the child. A county may require placement or licensing agencies, or both placement and licensing agencies, to actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same facility provided the facility is licensed, complies with all licensing requirements relevant to the protection of the child, and has a special permit, if necessary, to meet the needs of each child so placed.

(c) Neither the requirement for any license nor any regulation shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

(d) Pursuant to this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same licensed foster family home or with a foster family agency for subsequent placement in a certified family home. Children with developmental disabilities, mental disorders, or physical disabilities may be placed in licensed foster family homes or certified family homes, provided that an appraisal of the child's needs and the ability of the receiving home to meet those needs is made jointly by the placement agency and the licensee in the case of licensed foster family homes or the placement agency and the foster family agency in the case of certified family homes, and is followed by written confirmation prior to placement. The appraisal shall confirm that the placement poses no threat to any child in the home.

For purposes of this chapter, the placing of children by foster

family agencies shall be referred to as "subsequent placement" to distinguish the activity from the placing by public agencies.

SEC. 3. Section 1502 of the Health and Safety Code is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

(3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility

which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Adoption agency" means any individual, other than a parent, or entity engaged in the business of providing adoption services, who does any one or more of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 3.5. Section 1502 of the Health and Safety Code, as amended by Section 3 of this act, is amended to read:

1502. As used in this chapter:

(a) "Community care facility" means any facility, place, or building which is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following:

(1) "Residential facility" means any family home, group care facility, or similar facility determined by the director, for 24-hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(2) "Adult day care facility" means any facility which provides nonmedical care to persons 18 years of age or older in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on

less than a 24-hour basis.

(3) "Day treatment facility" means any facility which provides nonmedical care, counseling, educational or vocational support, or social rehabilitation services on less than a 24-hour basis to persons under 18 years of age who would otherwise be placed in foster care or who are returning to families from foster care. Program standards for these facilities shall be developed by the department, pursuant to Section 1530, in consultation with day treatment and foster care providers.

(4) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(5) "Foster family home" means any residential facility providing 24-hour care for six or fewer foster children which is owned, leased, or rented and is the residence of the foster parent or parents, including their family, in whose care the foster children have been placed. The placement may be by a public or private child placement agency or by a court order, or by voluntary placement by a parent, parents, or guardian.

(6) "Small family home" means any residential facility providing 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(7) "Social rehabilitation facility" means any residential facility which provides social rehabilitation services for no longer than 18 months in a group setting to adults recovering from mental illness who temporarily need assistance, guidance, or counseling. Program components shall be subject to program standards pursuant to Section 5458.1.

(8) "Community treatment facility" means any residential facility which provides mental health treatment services to children in a group setting. Program components shall be subject to program standards developed by the State Department of Mental Health pursuant to Section 5405 of the Welfare and Institutions Code.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(9) "Full-service adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assumes care, custody, and control of a child through relinquishment of the child to the agency or involuntary termination of parental rights to the child.

(B) Assesses the birth parents, prospective adoptive parents, or child.

(C) Places children for adoption.

(D) Supervises adoptive placements.

Private full-service adoption agencies shall be organized and operated on a nonprofit basis.

(10) "Noncustodial adoption agency" means any licensed entity engaged in the business of providing adoption services, who does all of the following:

(A) Assesses the prospective adoptive parents.

(B) Cooperatively matches children freed for adoption, who are under the care, custody, and control of a licensed adoption agency, for adoption, with assessed and approved adoptive applicants.

(C) Cooperatively supervises adoptive placements with a full-service adoptive agency, but does not disrupt a placement or remove a child from a placement.

Private noncustodial adoption agencies shall be organized and operated on a nonprofit basis.

(b) "Department" or "state department" means the State Department of Social Services.

(c) "Director" means the Director of Social Services.

SEC. 4. Section 1506 of the Health and Safety Code is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may use only a certified family home which has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to the provisions of Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(b) (1) A foster family agency shall certify to the department that such home has met the department's licensing standards.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall, develop licensing regulations differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(d) As used in this chapter, "certified family home" means a

family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

SEC. 4.5. Section 1506 of the Health and Safety Code, as amended by Section 1 of Assembly Bill 3139, is amended to read:

1506. (a) (1) Any holder of a valid license issued by the department which authorizes the licensee to engage in any foster family agency functions, may use only a certified family home which has been certified by that agency or a licensed foster family home approved for this use by the licensing county pursuant to Section 1506.5.

(2) Any home selected and certified for the reception and care of children by that licensee shall not, during the time it is certified and used only by that agency for these placements or care, be subject to the provisions of Section 1508. A certified family home may not be concurrently licensed as a foster family home or as any other licensed residential facility.

(b) (1) A foster family agency shall certify to the department that such home has met the department's licensing standards.

(2) The foster family agency shall issue a certificate of approval to the certified family home upon its determination that it has met the standards established by the department and before the placement of any child in the home.

(3) If the agency determines that the home no longer meets the standards, it shall notify the department and the local placing agency.

(c) The department shall, develop licensing regulations differentiating between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(d) As used in this chapter, "certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(e) Education requirements for social work personnel for a foster family agency shall be a master's degree from an accredited or state approved graduate school in social work or social welfare, marriage, family, and child counseling, child psychology, child development, counseling psychology, social psychology, or equivalent education and experience, as determined by the state department.

(f) In addition to the degree specifications in subdivision (e), all of the following master's level coursework and field practice shall be required of all new hires for the position of social work personnel effective January 1, 1992:

(1) At least 100 days of field practice in a social service agency setting.

(2) At least nine units of coursework related to children and families.

(3) At least three semester units in working with minority

populations.

(4) At least three semester units in child welfare.

Persons who are hired as social work personnel on or after the effective date of this subdivision, as added by the Statutes of 1988, but prior to January 1, 1992, who do not meet the masters level coursework and 100-day field practice requirement listed in this subdivision shall be required to successfully complete that coursework and field practice by December 31, 1991, in order to remain employed as social work personnel in a foster family agency. For those employees who were hired prior to the effective date of this subdivision, they shall not be required to meet the requirements of this subdivision in order to remain employed as social work personnel in a foster family agency.

(g) The State Department of Social Services shall be required to complete the process for the exception to minimum education requirements for social work personnel within 30 days of receiving the exception application of social work personnel qualifications from the foster family agency.

SEC. 5. Section 1506.5 is added to the Health and Safety Code, to read:

1506.5. (a) Foster family agencies shall not use foster family homes licensed by a county without the approval of the licensing county. When approval is granted, a written agreement between the foster family agency and the county shall specify the nature of administrative control and case management responsibility and the nature and number of the children to be served in the home.

(b) Before a foster family agency may use a licensed foster family home it shall review and, with the exception of a new fingerprint clearance, qualify the home in accordance with Section 1506.

(c) When approval is given, and for the duration of the agreement permitting the foster family agency use of its licensed foster family home, no child shall be placed in that home except through the foster family agency.

(d) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.

SEC. 6. Section 1522.6 is added to the Health and Safety Code, to read:

1522.6. The State Department of Social Services shall create, by February 1, 1989, an advisory committee, including, but not limited to, representatives of the Department of Justice, the County Welfare Directors Association, and the California Association of Services for Children, for the purpose of assisting the department to develop ways to expedite fingerprint clearances of potential licensed or certified foster parents. The department shall report to the Legislature, no later than July 1, 1989, concerning the length of time necessary to clear the fingerprints of the applicants and the measures

taken to expedite the clearances. The advisory committee created pursuant to this section shall be terminated on January 1, 1991.

SEC. 7. Article 2.7 (commencing with Section 1529.1) is added to Chapter 3 of Division 2 of the Health and Safety Code, to read:

Article 2.7. Foster Parent Training

1529.1. It is the intent of the Legislature that persons desiring to become, or to continue being, foster parents shall receive training in order to assist them in being effective substitute caregivers and to enhance the safety and growth of children placed with them. There is a need to develop a basic curriculum, a program for continuing education, and specialized training for parents caring for children with unique needs.

1529.2. In addition to the foster parent training provided pursuant to Section 903.7 of the Welfare and Institutions Code, foster family agencies shall supplement the community college training by providing a program of training for their certified foster families.

1529.3. (a) By January 1, 1990, the Legislative Analyst shall report to the Legislature on the status of foster parent training in California. The report shall include, but not be limited to, the following: identification of a desirable basic curriculum of training for foster parents, identification of specialized training needs for foster parents in addition to the basic curriculum; recommendations for whether training should be mandatory for all foster parents; and recommendations on how the training should be funded.

(b) In preparing the report, the Legislative Analyst shall consult with the State Department of Social Services, the Chancellor of the California Community Colleges, the California State Foster Parents Association, the California Association of Services for Children, the County Welfare Directors Association, and other appropriate parties.

SEC. 8. Section 1536.1 of the Health and Safety Code is amended to read:

1536.1. (a) "Placement agency" means any county probation department, county welfare department, county social service department, county mental health department, county public guardian, general acute care hospital discharge planner or coordinator, and regional center for persons with developmental disabilities which is engaged in finding homes or other places for placement of persons of any age for temporary or permanent care.

(b) A placement agency shall place individuals only in licensed community care facilities, facilities which are exempt from licensing under Section 1505 or if the facility satisfies subdivision (c) of Section 362 of the Welfare and Institutions Code, or with a foster family agency.

(c) No employee of a placement agency shall place, refer, or recommend placement of a person in a facility operating without a license, unless the facility is exempt from licensing under Section 1505 or unless the facility satisfies subdivision (c) of Section 362 of the

Welfare and Institutions Code. Violation of this subdivision is a misdemeanor.

(d) Any employee of a placement agency who knows, or reasonably suspects, that a facility which is not exempt from licensing is operating without a license shall report the name and address of the facility to the department. Failure to report as required by this subdivision is a misdemeanor.

(e) The department shall investigate any report filed under subdivision (d). If the department has probable cause to believe that the facility which is the subject of the report is operating without a license, the department shall investigate the facility within 10 days after receipt of the report.

(f) A placement agency shall notify the appropriate licensing agency of any known or suspected incidents which would jeopardize the health or safety of residents in a community care facility. Reportable incidents include, but are not limited to, all of the following:

(1) Incidents of physical abuse.

(2) Any violation of personal rights.

(3) Any situation in which a facility is unclean, unsafe, unsanitary, or in poor condition.

(4) Any situation in which a facility has insufficient personnel or incompetent personnel on duty.

(5) Any situation in which residents experience mental or verbal abuse.

SEC. 9. Section 1536.2 is added to the Health and Safety Code, to read:

1536.2. When a placement agency has placed a child with a foster family agency, the foster family agency shall subsequently place in a licensed foster family home or certified family home which best meets the needs of the child.

SEC. 10. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document which at a minimum specifies the type of home in which the child shall be placed, the appropriateness of the home for meeting the child's needs, the agency's plan for ensuring that the child, the family, and foster parents receive services, and the appropriateness of the services provided to the child, in order to meet the child's needs while in foster care, and to reunify the child with his or her family, or, when reunification is not possible, to facilitate an alternate permanent plan.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by

that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residency of a licensee in which 24-hour care and supervision are provided for children.

(e) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(f) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(g) "Group home" means a nondetention privately operated residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code.

(h) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, which shall include a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(i) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(j) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(k) "Preplacement preventive services" means services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(*l*) "Relative" means a person who can be a "caretaker relative" of a dependent child under Section 406 of the Social Security Act.

(m) "Voluntary placement" means an out-of-home placement of a minor by (1) county welfare department after the parents or guardians have requested the assistance of the county welfare

department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(n) "Voluntary placement agreement" means a written agreement between either the county welfare department, a licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a minor which specifies the terms of the voluntary placement.

(o) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

SEC. 11. Section 11462.4 of the Welfare and Institutions Code is amended to read:

11462.4. Notwithstanding Section 11342 of the Government Code, group homes and foster family agencies shall be deemed small businesses and the department shall project the impact on group homes and foster family agencies of any new regulations which will affect those community care facilities.

SEC. 12. Section 11463 of the Welfare and Institutions Code is amended to read:

11463. (a) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall develop and implement a ratesetting system for foster family agencies to be effective no later than July 1, 1985.

No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1982, to persons eligible for aid under subdivision (a) of Section 11450.

(b) The department shall develop regulations specifying the purposes, types and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. Distinction for ratesetting purposes shall be drawn between foster family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.

SEC. 13. Section 11463.5 of the Welfare and Institutions Code is amended to read:

11463.5. (a) The department may perform or have performed

audits on all foster family agencies which have received funds on behalf of children receiving assistance under the AFDC-FC program.

(b) The department shall develop and maintain a system for the recovery of overpayments. The department shall seek recovery of unauthorized funds but it shall attempt to do so in a manner which does not jeopardize overall availability of placements for foster children. Nothing in this subdivision shall preclude the department from revoking the license of, or initiating legal procedures against, a foster family agency which violates relevant laws and regulations.

(c) The department shall provide exit interviews with providers wherein deficiencies found are explained and the opportunity exists for foster family agencies to respond.

(d) The department shall develop and maintain regulations specifying the procedure for the appeal of audit findings.

SEC. 14. Section 16514 of the Welfare and Institutions Code is amended to read:

16514. (a) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, may be housed in an emergency shelter or, pursuant to the procedures for placement set forth in this code, placed in a foster family home, or with a foster family agency for subsequent placement in a suitable licensed foster family home or certified family home, with minors adjudged wards of the juvenile court pursuant to Section 601.

(b) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or adjudged a ward of the juvenile court pursuant to Section 601, shall not be housed in an emergency shelter with any minor adjudged a ward of the juvenile court pursuant to Section 602.

(c) A minor who has been voluntarily placed, adjudged a dependent child of the juvenile court pursuant to Section 300, or as to whom a petition has been filed under Section 325, shall not be placed or detained in a group home or licensed foster family home or with a foster family agency to be subsequently placed in a certified family home with any minor adjudged a ward of the juvenile court pursuant to Section 601 or 602, unless the social worker or probation officer has determined that the group home or licensed foster family home or foster family agency has a program that meets the specific needs of the minor being placed or detained, and there is a commonality of needs with the other minors in the group home or licensed foster family home or certified family home.

(d) Nothing in this section shall transfer or eliminate the responsibility of the placing agency for the care, custody, or control of the child. Nothing in this section shall relieve a foster family agency of its responsibilities for or on behalf of a child placed with it.

For purposes of this section, the placing of children by foster family agencies shall be referred to as "subsequent placement" to

distinguish the activity from the placing by public agencies.

SEC. 15. It is the intent of the Legislature that the State Department of Social Services develop regulations for foster family agencies requiring those agencies, during the home interview of prospective certified foster parents, to advise the parents about the nature of the training, social work support, and other services available from the agency.

SEC. 16. Section 3.5 of this bill incorporates amendments to Section 1502 of the Health and Safety Code proposed by both this bill and AB 2967. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, but this bill becomes operative first, (2) each bill amends Section 1502 of the Health and Safety Code, and (3) this bill is enacted after AB 2967, in which case Section 1502 of the Health and Safety Code, as amended by Section 3 of this bill, shall remain operative only until the operative date of AB 2967, at which time Section 3.5 of this bill shall become operative.

SEC. 17. Section 4.5 of this bill incorporates amendments to Section 1506 of the Health and Safety Code proposed by both this bill and AB 3139. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 1506 of the Health and Safety Code, and (3) this bill is enacted after AB 3139, in which case Section 1506 of the Health and Safety Code, as amended by Section 1 of AB 3139, shall remain operative only until the operative date of this bill, at which time Section 4.5 of this bill shall become operative, and Section 4 of this bill shall not become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 19. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that programs for the preservation of foster home services may continue, it is necessary that this act go into immediate effect.

CHAPTER 1143

An act to add Section 11580.09 to the Insurance Code, relating to motor vehicle insurance.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11580.09 is added to the Insurance Code, to read:

11580.09. (a) Any policy of automobile liability insurance shall contain a notice stating limits of future coverage. The notice shall be prominently displayed on the first page of the policy or in related documents which are provided to the policyholder.

(b) For the purposes of this section:

(1) "Automobile liability insurance policy" means a policy of automobile liability insurance, and any other policy of automobile insurance that contains as a component automobile liability insurance, but limited to those policies that are defined in Section 660.

(2) "Limits of future coverage" means specified reasons for which the insurer may cancel or refuse to renew the policy or increase the premium for the same coverage.

(3) "Notice" means the specific information specified in paragraph (2) or a clear and concise reference to the exact location of the information in the policy or in related documents provided to the policyholder.

(c) For the purposes of notice of cancellation, the insurer shall list those grounds for valid notice of cancellation as specified in Section 661.

(d) For the purposes of nonrenewal or premium increase, the insurer shall state the reasons for this action which shall include, if applicable, but not be limited to, the following:

(1) Accident involvement by an insured, and whether the insured is at fault in the accident.

(2) A change in, or an addition of, an insured vehicle.

(3) A change in, or addition of, an insured under the policy.

(4) A change in the location of garaging of an insured vehicle.

(5) A change in the use of the insured vehicle.

(6) Convictions for violating any provision of the Vehicle Code or the Penal Code relating to the operation of a motor vehicle.

(7) The payment made by an insurer due to a claim filed by an insured or a third party.

(e) A statement shall be included in the nonrenewal section that some nonrenewals and premium increases may result from reasons that are not specified in subdivision (d) for an insurer that are both lawful and not unfairly discriminatory.

SEC. 2. This act shall become operative April 1, 1989.

CHAPTER 1144

An act to amend Sections 15327.5, 15373, 15373.25, and 15373.8 of, and to add Section 15334.2 to the Government Code, and to add Sections 50832, 50833, and 50834 to the Health and Safety Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 15327.5 of the Government Code is amended to read:

15327.5. (a) Notwithstanding Section 15327, the department may pool the loans and sell any notes or other evidence of indebtedness derived from grants or loans of moneys on deposit in the California Economic Development Grant and Loan Fund. In addition, the department may insure those loans.

(b) The proceeds derived from the sale of notes or other evidence of indebtedness shall be used for economic development in a manner consistent with Section 304 of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. Sec. 3153).

(c) Any local development corporation may participate in a transaction by the department of notes or other evidence of indebtedness pursuant to subdivision (a).

(d) Pursuant to the authority granted by this section, the department shall periodically assess the use of and report to the Legislature on a secondary marketing program for state and local loan programs and loan guarantee programs.

SEC. 2. Section 15334.2 is added to the Government Code, to read:

15334.2. There is in the Office of Tourism the position of Rural Tourism Liaison, who shall provide, among other responsibilities as determined by the office, liaison services between local rural tourism agencies and the office, and who shall act as an advocate for rural tourism needs within the office. The director of the department may fill this position from the existing staff allocation.

SEC. 3. Section 15373 of the Government Code is amended to read:

15373. This chapter shall be known, and may be cited as, the McCorquodale-Nielsen-Hauser Rural Renaissance Act of 1986.

SEC. 4. Section 15373.25 of the Government Code is amended to read:

15373.25. The department shall be responsible for all of the

following:

(a) Providing comprehensive technical and financial assistance to rural-based local public, private, and nonprofit agencies in order to facilitate the planning and implementation of rural economic development projects.

(b) Coordinating state and federal economic development programs on behalf of rural agencies to ensure that the needs of rural California are adequately and effectively addressed. To the extent possible, the department shall endeavor to serve as the single source for rural agencies seeking economic development assistance from the state.

(c) Administering the economic development programs established pursuant to this chapter.

(d) Serving as a clearinghouse of information on available state and federal programs which may be of assistance to improving job opportunities and general economic conditions in rural California.

(e) Report, as a part of the annual report required under subdivision (e) of Section 15323, its activities pursuant to this chapter. This report shall include a list of applications received for funding under Article 4 (commencing with Section 15373.3) and Article 5 (commencing with Section 15373.6), a list of approved applications, a summary of actual revenues and expenditures for the preceding fiscal year, and an estimate of the revenues and expenditures for the coming fiscal year. The report shall also include an evaluation of the success of the promotion and infrastructure programs including, but not limited to, information on the number of jobs created, businesses attracted, and tax revenues generated. The report shall also include an accounting of the percentage of rural economic promotion program grants awarded under this chapter to rural tourism organizations.

SEC. 5. Section 15373.8 of the Government Code is amended to read:

15373.8. (a) (1) The panel shall meet regularly to conduct its business and to review and approve projects pursuant to this article for funding from the Rural Economic Development Fund. The panel shall make a decision on any application within 90 days after a local agency submits the application to the department. This financing shall be in the form of loans and grants.

(A) Loans shall be limited to a maximum of one million dollars ($1,000,000) per project. The terms of any approved loan shall be specified in a loan agreement between the local agency and the panel. Repayment of loans shall begin within nine months of the date of the loan and shall be made quarterly. Each loan shall be for a term not to exceed 10 years from the date the repayment begins. The local agency shall pay interest at a rate specified in the loan agreement which shall not exceed 2 percent less than the rate earned by the State Surplus Money Investment Fund. Penalties, if established by the panel, shall be uniformly applied. Any loan or grant approved for a local agency shall not be considered debt within the meaning of

Section 18 of Article XVI of the California Constitution.

(B) Grants shall be limited to two hundred fifty thousand dollars ($250,000) per project and shall be made only if a local agency demonstrates an inability to repay a loan or similar extraordinary circumstances. In no event shall more than 10 percent of the available moneys in the fund in any fiscal year be allocated as grants.

(2) Subject to paragraph (3), a local agency which submits an application pursuant to Section 15373.9 may, at the time the application is submitted, request the panel to approve a loan amount, term, interest rate, beginning payment, or frequency of repayment which differs from the requirements of paragraph (1). The panel may approve the request or may change and approve the request only if all of the following exist:

(A) The local agency provides sufficient documentation to the panel that the local agency or special district responsible for repaying the loan will be unable to repay a loan under the conditions specified in paragraph (1).

(B) The local agency provides sufficient documentation to the panel that other sources of financing which offer similar rates and terms to those determined by the panel to be affordable to the local agency or special district responsible for repaying the loan are unavailable or infeasible to finance the project.

(C) The loan is equal to or less than one million dollars ($1,000,000) or the loan is for more than one million dollars ($1,000,000) and the local agency provides sufficient documentation of special circumstances.

(3) The panel shall not approve a loan in an amount of more than two million dollars ($2,000,000), nor shall it approve a loan which provides for an indefinite deferral of the repayment of principal and interest, or for a term for more than 50 years. The panel shall make a decision on any request made pursuant to paragraph (2) at the time the panel makes a decision on the loan application.

(b) Loans and grants may be made to a local agency, and for projects which meet the criteria specified in Section 15373.9, for the purpose of assisting in financing public improvements, including, but not limited to, sewer and water facilities, streets, storm drains, bridges, and related costs, such as engineering design. Funds may be used for the development of new facilities, or the rehabilitation, alteration, expansion, or improvement of existing facilities.

(c) Preliminary design work, including a cost estimate for the project, shall be completed before a loan or grant is awarded. Costs for preliminary design work, project cost estimates, planning, preliminary engineering, and other costs necessary for preparation of the application may be reimbursed from a loan or grant, subject to approval by the panel.

(d) Any county which does not meet the definition of a county provided for under subdivision (a) of Section 15373.1 may apply for a loan or grant under this article only with respect to an unincorporated area outside of an urbanized area as designated by

the United States Bureau of the Census from the 1980 federal census.

(e) Projects financed under this article shall meet all of the following requirements:

(1) Be associated with either an expansion, retention, relocation, or new location of an identified private sector firm. This firm shall be a manufacturing, service, research and development, production, assembly, warehousing, or industrial distribution facility. Commercial business activity, as well as tourist and recreation facilities, which are found by the panel to significantly increase permanent private sector employment and substantially improve the economic prosperity of an area may also qualify the project.

(2) Directly lead to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. Projects shall also create at least one full-time job for every fifty thousand dollars ($50,000) in loan funds received except in the case of research and development facilities in which the economic job creation standard shall be set by the panel.

(f) Loans and grants may also be made, pursuant to this article and under criteria established by the department, to local agencies in high unemployment areas to develop infrastructure for industrial parks or other sites for businesses where there is no specific business already committed to the project, when the department determines that there is little likelihood of business expansion into the community prior to the development of the parks or sites, and that the loan or grant has a high probability of leading to the creation or retention of permanent private sector jobs within the applicant's jurisdictional boundaries. The loan or grant cannot exceed two hundred fifty thousand dollars ($250,000). Notwithstanding subparagraph (A) of paragraph (1) of subdivision (a) of this section, repayment of any loan directed towards a specific business expansion, retention, relocation, or new location shall begin when the industrial park or other development has enough occupancy to produce adequate revenues for repayment. The amount and the timing of the repayment shall be specified in the loan agreement between the local agency and the panel.

(g) Priority shall be given to those projects which create jobs in communities with particularly high levels of unemployment and declining resource-based economics. Consideration shall be given to other community factors in awarding loans and grants, including, but not limited to, those communities which are facing local government fiscal crises, a high poverty rate, or which exhibit an active commitment to diversifying and expanding their economic base. To the extent possible, loans and grants shall be equitably distributed throughout the various rural regions of the state.

(h) Financing shall not be provided for projects which would result in increased production or availability of goods, materials, or services where sufficient capacity exists in the community to meet current and future demands.

(i) Loans or grants may not finance projects which would either

effect the relocation of any substantial operations of the company from one area of the state to another, or result in the abandonment of any substantial operations of the company within other areas of the state, unless completion of the project or operation of the facility is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(j) The proceeds of repayment of loan principal and the payment of interest prior to July 1, 1991, shall be deposited in the fund. The proceeds of repayment of loan principal and the payment of interest on and after July 1, 1991, shall be deposited in the Special Account for Capital Outlay.

SEC. 6. Section 50832 is added to the Health and Safety Code, to read:

50832. In order to ensure that a city or county may apply for both economic development and general program grants pursuant to this chapter in the same year, each applicant shall have a maximum grant request ceiling of eight hundred thousand dollars ($800,000), excluding economic development assistance grants and general program assistance grants made available under Section 50833, of which a maximum of five hundred thousand dollars ($500,000) may be used for either a housing or economic development application. However, no applicant shall receive more than one million two hundred thousand dollars ($1,200,000) in any two consecutive calendar years. The department shall inform eligible cities and counties of the eligibility criteria and requirements under this section and in Section 50833.

SEC. 7. Section 50833 is added to the Health and Safety Code, to read:

50833. (a) Ten percent of the total amount of the Small Cities Block Grant Program funds set aside for economic development shall be allocated to make economic development assistance grants to eligible small cities or counties for business attraction, retention, and expansion programs for the development of local economic development strategies, predevelopment grant feasibility studies and downtown revitalization programs. Eligible small cities or counties may contract with public agencies or nonprofit or for profit corporations or entities to provide these services. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this 10 percent set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. The maximum grant per application shall be thirty thousand dollars ($30,000) per project. Each applicant shall not receive more than one grant per year and shall be eligible to apply each year. Funds not applied for or allocated under this section may be used for other eligible economic development purposes. If there are no eligible projects, any unexpended funds shall revert to the general program.

(b) Ten percent of the total amount of the Small Cities Block Grant Program funds not used for economic development shall be set-aside to make technical assistance grants to eligible small cities or counties for purposes including, but not limited to: inventory of housing needing rehabilitation in the district, income surveys of area residents, and any general studies of housing needs in the district. Each applicant shall be required to provide a cash match of up to 25 percent of the total amount requested. A technical assistance grant received under this 10 percent set-aside is in addition to the city or county ceiling or its ability to apply under the economic development or general program set-asides. Unexpended funds allocated under this section shall revert to the general program, but not to the economic development set-aside. The maximum grant per application shall be thirty thousand dollars ($30,000) per project. Each applicant shall not receive more than one grant per year and shall be eligible to apply each year. Funds not applied for or allocated under this section may be used for other eligible general block grant programs excluding economic development.

(c) If, under federal law, the 10-percent economic assistance grants and the 10-percent general program assistance grants are considered to be administrative expenditures, the department may reduce the percentages of the set-asides by up to the amount necessary to remain within the allowable limits for administrative expenditures.

SEC. 8. Section 50834 is added to the Health and Safety Code, to read:

50834. (a) Economic development set-aside grants shall be awarded on a quarterly or bimonthly basis at the discretion of the director. Any economic development set-aside funds not encumbered for funding of a project by the end of the federal contract period shall revert to the general program set-aside for use, if approved projects for which no funds were available are pending.

(b) The department shall prepare a separate and discrete training manual and request for proposal for the economic development set-aside.

(c) Once an economic development project award is approved by the director, a contract shall be executed and funds made available to the recipient as soon as possible.

(d) Any program income received by a city or county grantee, or any loan repayments made by a beneficiary to a grantee, may be utilized by the city or county grantee for any activity currently eligible under federal law and regulations, provided that the department determines that the beneficiary or grantee has complied reasonably with the terms and conditions described in the contract between the grantee and the department.

SEC. 9. The Department of Housing and Community Development shall evaluate and report to the Legislature by July 1989, on the performance of the Small Cities Block Grant Program, both housing and economic development, since state administration

began, through December 31, 1987. The report shall include, but not be limited to:

(a) With respect to the economic development set-aside, for each economic development grant, the total dollar amount and purpose of the grant; the total number of permanent jobs created or retained; the total number and percent of the jobs filled by the targeted income group; the total dollar amount of private sector funds leveraged; the market need met by the product or service; and the overall performance of the city or county grantee.

(b) The total dollar amount and percent spent by grantees for program administration, planning studies and technical assistance.

(c) The total dollar amount of any unawarded or recaptured funds in the economic development set-aside added to the general allocation of the Small Cities Block Grant Program.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide financial assistance as soon as possible pursuant to the McCorquodale-Nielsen-Hauser Rural Renaissance Act of 1986 to rural areas of the state with high unemployment levels and to facilitate the funding of economic development projects under the Community Development Block Grant Program during the 1988–89 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 1145

An act to repeal and add Chapter 10.5 (commencing with Section 1725) of Part 2 of Division 2 of the Water Code, relating to water rights.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1547.1 of the Water Code is amended to read:

1547.1. Every person filing a petition for permission to make a transfer of water or water rights pursuant to Section 386, 1010, or 1011 or Chapter 10.5 (commencing with Section 1725) for use outside of the basin in which the water originates shall pay to the board at the time of filing the petition a fee equal to 25 percent of the amount computed by using the schedules in Article 1 (commencing with Section 1525).

SEC. 2. Chapter 10.5 (commencing with Section 1725) of Part 2 of Division 2 of the Water Code is repealed.

SEC. 3. Chapter 10.5 (commencing with Section 1725) is added

to Part 2 of Division 2 of the Water Code, to read:

CHAPTER 10.5. CHANGE OF POINT OF DIVERSION, PLACE OF USE, OR PURPOSE OF USE, INVOLVING THE TRANSFER OF WATER

Article 1. Temporary Changes

1725. A permittee or licensee may temporarily change the point of diversion, place of use, or purpose of use due to a transfer or exchange of water or water rights if the transfer would only involve the amount of water that would have been consumptively used or stored by the permittee or licensee in the absence of the proposed temporary change, would not injure any legal user of the water, and would not unreasonably affect fish, wildlife, or other instream beneficial uses. For purposes of this article, "consumptively used" means the amount of water which has been consumed through use by evapotranspiration, has percolated underground, or has been otherwise removed from use in the downstream water supply as a result of direct diversion.

1726. The permittee or licensee shall notify the board of a proposed temporary change. The notice shall contain information indicating the amount of water consumptively used by the permittee or licensee, the amount of water proposed for transfer, the parties involved in the transfer, and any other information the board by rule may prescribe.

1727. (a) Upon receipt by the board of notification of a proposed temporary change, the board shall make an evaluation sufficient to determine both of the following:

(1) The proposed temporary change would not injure any legal user of the water, during any potential hydrologic condition, through resulting significant changes in water quantity, water quality, timing of diversion or use, consumptive use of the water, reduction in return flows, or reduction in the availability of water within the watershed of the transferor.

(2) The proposed temporary change would not unreasonably affect fish, wildlife, or other instream beneficial uses.

(b) Upon completion of the evaluation under subdivision (a), and finding that no injury or unreasonable effect would result, the board shall so notify the permittee or licensee, and those legal users of water identified pursuant to subdivision (a), of its finding and the order approving the temporary change by personal delivery or registered mail. The temporary change shall be effective five days after the order becomes effective.

(c) If the board cannot satisfy the requirements under subdivision (a) within 60 days following receipt of notification of a proposed temporary change or within any extension of that period approved by the permittee or licensee, or cannot make the finding under subdivision (b), it shall so notify the permittee or licensee and those legal users of water identified pursuant to subdivision (a), by

personal delivery or registered mail, and shall fix a time and place for a hearing on the issues set forth in subdivision (a).

1728. For the purposes of this article, a temporary change means any change of point of diversion, place of use, or purpose of use involving a transfer or exchange of water or water rights for a period of one year or less.

1729. A proposed temporary change under this article shall be exempt from the requirements of Division 13 (commencing with Section 21000) of the Public Resources Code.

1730. Nothing in this article shall prevent any writ of mandate to inquire into the validity of a finding by the board under subdivision (b) of Section 1727. Any petition for a writ of mandate shall be filed within 30 days after final action by the board.

1731. Following the expiration of the temporary change period, all rights shall automatically revert to the original holder of the right without any action by the board.

1732. The board shall not approve a temporary change if the board, in its judgment, concludes, if applicable, that the petitioner has not exercised due diligence in petitioning for a change pursuant to provisions of this division other than this article.

Article 2. Long-term Transfers

1735. The board may consider a petition for a long-term transfer of water or water rights involving a change of point of diversion, place of use, or purpose of use. A long-term transfer shall be for any period in excess of one year.

1736. The board, after providing notice and opportunity for a hearing, may approve such a petition for a long-term transfer where the change would not result in substantial injury to any legal user of water and would not unreasonably affect fish, wildlife, or other instream beneficial uses.

1737. Following the expiration of the long-term transfer period, all rights shall automatically revert to the original holders of the right without any action by the board.

Article 3. Transfer of Decreed Rights

1740. Any water right determined under a court decree issued pursuant to Chapter 3 (commencing with Section 2500) of Part 3, after January 1, 1981, shall be transferable pursuant to this chapter and Chapter 10 (commencing with Section 1700). The court having the appropriate jurisdiction over the decreed rights may enter a supplemental decree modifying any rights involved upon motion of the board or any party with a vested water right.

CHAPTER 1146

An act to amend Sections 11712 and 11752 of the Government Code, relating to state government, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11712 of the Government Code is amended to read:

11712. The director shall continue to develop plans and policies in a coordinated fashion regarding all of the following:

(a) The state data centers, including the optimum size and degree of centralization of the data centers.

(b) Information management personnel, including the training and qualifications of such personnel.

(c) Office automation, including the use of personal computing and electronic mail.

SEC. 2. Section 11752 of the Government Code is amended to read:

11752. There is in the Business, Transportation and Housing Agency the Stephen P. Teale Data Center. The Stephen P. Teale Data Center shall be under the supervision of a data center director who shall be appointed by the Secretary of the Business, Transportation and Housing Agency, pursuant to civil service. The director shall be responsible for the efficient and effective management and operation of the data center. The director shall continue to communicate regularly with the Office of Information Technology regarding future needs of the center and the likely impact of emerging technologies.

SEC. 3. Notwithstanding Section 6.50 of Chapter 186 of the Statutes of 1986, the Department of Finance may authorize the transfer of six hundred twenty thousand dollars ($620,000) from category (c) to category (b) of Item 0890-001-001 of Chapter 186 of the Statutes of 1986.

CHAPTER 1147

An act relating to the Alameda-Contra Costa Transit District, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. For the 1984–85, 1985–86, and 1986–87 fiscal years, the Alameda-Contra Costa Transit District has incurred operating budget deficits; and for the 1987-88 fiscal year, the district anticipates an operating budget deficit of one million two hundred thousand dollars ($1,200,000). As a result, the Auditor General, at the request of the Legislature, has recently completed a study of the district's financial affairs.

In order to avoid further deterioration of the district's financial condition which could impair its ability to provide essential public transportation services, it is necessary to exercise direct oversight of the district's operations.

In taking this action, the Legislature does not intend to abrogate the governance of the district by its elected board of directors. Rather, the purpose of this act is to assist the district to regain financial stability and to provide essential transportation services.

SEC. 2. (a) The Auditor General shall undertake the additional powers and responsibilities of monitor prescribed by this act, for the period during which this act is in effect.

(b) The Auditor General may delegate to a person whom it designates as monitor, which person need not be an employee of the Auditor General, all or any of the powers of the monitor and may impose conditions upon the powers so delegated, or the Auditor General may exercise those powers. As used in this act, "monitor" means the Auditor General, or the person whom the Auditor General designates as monitor, as the case may be.

(c) The district shall execute an agreement with the Auditor General in which the district agrees to cover all costs associated with the Auditor General's activities pursuant to this act, but in no case shall the total amount of those costs exceed fifty thousand dollars ($50,000). The agreement shall be executed within 30 days following the effective date of this act.

SEC. 3. The monitor shall conduct quarterly reviews to determine the progress of the district in correcting deficiencies identified in the Auditor General's Report on the district (P-767 dated March 8, 1988) and recommend specific courses of action to be taken by the board of directors.

SEC. 4. The monitor shall report quarterly to the Legislature on his or her findings and recommendations beginning September 1, 1988. The report shall include an evaluation of the district's actions

to improve in the problem areas identified in the Auditor General's report.

SEC. 5. This act shall constitute full authority for the monitor to have access to any information and records relating to the district.

SEC. 6. This act shall become inoperative on July 1, 1990, and, as of January 1, 1991, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1991, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Alameda-Contra Costa Transit District has self-financing authority to cover any costs that may be incurred in carrying on any program or performing any service required to be carried on or performed by this act.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Conditions affecting the fiscal integrity and operations of the Alameda-Contra Costa Transit District make it imperative that immediate action be taken to prevent further impairment of the district's ability to provide essential public transportation services.

CHAPTER 1148

An act to repeal Section 130355 of the Public Utilities Code, relating to transit.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 130355 of the Public Utilities Code is repealed.

CHAPTER 1149

An act to amend Sections 6001, 6032, 6140, 6140.1, 6141.1, 6142, and 6143 of, to add Sections 6140.55, 6140.8, and 6140.9 to, and to add and repeal Section 6140.4 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 6001 of the Business and Professions Code is amended to read:

6001. The State Bar of California is a public corporation. It is hereinafter designated as the State Bar.

The State Bar has perpetual succession and a seal and it may sue and be sued. It may, for the purpose of carrying into effect and promoting its objectives:

(a) Make contracts.

(b) Borrow money, contract debts, issue bonds, notes and debentures and secure the payment or performance of its obligations.

(c) Own, hold, use, manage and deal in and with real and personal property.

(d) Construct, alter, maintain and repair buildings and other improvements to real property.

(e) Purchase, lease, obtain options upon, acquire by gift, bequest, devise or otherwise, any real or personal property or any interest therein.

(f) Sell, lease, exchange, convey, transfer, assign, encumber, pledge, dispose of any of its real or personal property or any interest therein, including without limitation all or any portion of its income or revenues from membership fees paid or payable by members.

(g) Do all other acts incidental to the foregoing or necessary or expedient for the administration of its affairs and the attainment of its purposes.

Pursuant to those powers enumerated in subdivisions (a) to (g), inclusive, it is recognized that the State Bar has authority to raise revenue in addition to that provided for in Section 6140 and other statutory provisions. The State Bar is empowered to raise that additional revenue by any lawful means, including, but not limited to, the creation of foundations or not-for-profit corporations.

No law of this state restricting, or prescribing a mode of procedure for the exercise of powers of state public bodies or state agencies, or classes thereof, including, but not by way of limitation, the provisions contained in Division 3 (commencing with Section 11000), Division 4 (commencing with Section 16100), and Part 1 (commencing with Section 18000) and Part 2 (commencing with Section 18500) of

Division 5, of Title 2 of the Government Code, shall be applicable to the State Bar, unless the Legislature expressly so declares.

SEC. 1.5. Section 6032 of the Business and Professions Code is amended to read:

6032. Subject to the approval of the Committees on Judiciary of each house of the Legislature, the board shall contract with an independent expert for the purpose of conducting a comprehensive study of the State Bar's affirmative action and equal employment opportunity program with regard to its employees, of assisting the State Bar with respect to those programs, and with developing and implementing a minority and women business enterprise program. A final report shall be submitted to each of the Committees on Judiciary no later than September 1, 1989.

Moneys for the support of the independent expert shall be established and paid in accordance with the provisions of Section 6140.9.

SEC. 2. Section 6140 of the Business and Professions Code is amended to read:

6140. (a) The board shall fix the annual membership fee for 1989 as follows:

(1) For active members who have been admitted to the practice of law in this state for three years or longer preceding the first day of February of the year for which the fee is payable, at the sum of two hundred forty-five dollars ($245).

(2) For active members who have been admitted to the practice of law in this state for less than three years but more than one year preceding the first day of February of the year for which the fee is payable, at the sum of one hundred seventy-seven dollars ($177).

(3) For active members who have been admitted to the practice of law in this state during, or for less than one year preceding the first day of February of, the year for which the fee is payable, at a sum not exceeding one hundred forty-six dollars ($146).

(b) The board shall fix the annual membership fee for 1990 as follows:

(1) For active members who have been admitted to the practice of law in this state for three years or longer preceding the first day of February of the year for which the fee is payable, at the sum of two hundred sixty-eight dollars ($268).

(2) For active members who have been admitted to the practice of law in this state for less than three years but more than one year preceding the first day of February of the year for which the fee is payable, at the sum of two hundred dollars ($200).

(3) For active members who have been admitted to the practice of law in this state during, or for less than one year preceding the first day of February of, the year for which the fee is payable, at a sum not exceeding one hundred sixty-nine dollars ($169).

(c) The annual membership fee for active members is payable on or before the first day of February of each year. If the board finds it appropriate and feasible, it may provide by rule for payment of fees

on an installment basis with interest, by credit card, or other means, and may charge members choosing any alternative method of payment an additional fee to defray costs incurred by that election.

This section shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

SEC. 2.5. Section 6140.1 of the Business and Professions Code is amended to read:

6140.1. The State Bar annually shall submit its proposed baseline budget for the following fiscal year to the appropriate fiscal committees of the Legislature and the Joint Legislative Budget Committee by November 15, and its proposed final budget by February 15, so that the budget can be reviewed and approved in conjunction with any bill that would authorize the imposition of membership dues. Each proposed budget shall include the estimated revenues, expenditures, and staffing levels for all of the programs and funds administered by the State Bar. Any bill that authorizes the imposition of membership dues shall be a fiscal bill and shall be referred to the appropriate fiscal committees; provided, however, that the bill may be approved by a majority vote.

The State Bar shall submit the budget documents in a form comparable to the documents prepared by state departments for inclusion in the Governor's Budget and the salaries and wages supplement. In addition, the bar shall provide supplementary schedules detailing operating expenses and equipment, all revenue sources, any reimbursements or interfund transfers, fund balances, and other related supporting documentation. The bar shall submit budget change proposals with its final budget, explaining the need for any differences between the current and proposed budgets.

SEC. 3. Section 6140.4 is added to the Business and Professions Code, to read:

6140.4. (a) The board may increase the annual membership fee fixed by it pursuant to Section 6140 by an additional fee for discipline augmentation of not more than one hundred ten dollars ($110) for 1989, 1990, and 1991, respectively, for all active members.

(b) This augmentation shall be in addition to existing levels of expenditure for discipline as established during 1987 for 1988.

(c) The board may apply up to one hundred ten dollars ($110) of the discipline enhancement fees during 1989, 1990, or 1991 to pay disciplinary expenses beyond fee receipts for 1988 and 1989.

(d) This section shall remain in effect until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 4. Section 6140.55 is added to the Business and Professions Code, to read:

6140.55. The board may increase the annual membership fees fixed by it pursuant to Section 6140 by an additional amount per active member not to exceed twenty-five dollars ($25) in any year, the additional amount to be applied only for the purposes of the

Client Security Fund and the costs of its administration, including, but not limited to, the costs of processing, determining, defending, or insuring claims against the fund.

SEC. 5. Section 6140.8 is added to the Business and Professions Code, to read:

6140.8. The term of the State Bar Discipline Monitor shall terminate on January 1, 1992. On September 20, 1991, the monitor shall issue a final report to the Legislature on the implementation of reforms and the performance of the State Bar thereunder, with final recommendations for legislative and budgetary changes in the discipline-competence assurance process of the State Bar.

SEC. 5.3. Section 6140.9 is added to the Business and Professions Code, to read:

6140.9. Moneys for the support of the discipline monitor pursuant to Section 6140.8 and for the support of the independent expert pursuant to Section 6032 shall be paid in whole or part by a fee of two dollars ($2) per active member per year.

The State Bar shall first allocate the amount payable to the monitor out of the fees collected pursuant to this section. The remaining fees shall then be paid to the independent expert during his or her contract term, in addition to any other amounts appropriated by the State Bar in its sound discretion for this purpose, and after expiration of his or her contract term, such remaining fees shall be applied to the purposes set forth in Section 6140.4.

SEC. 5.5. Section 6141.1 of the Business and Professions Code is amended to read:

6141.1. The payment by any member of the annual membership fee, any portion thereof, or any penalty thereon, may be waived by the board as it may provide by rule. The board may require submission of recent federal and state income tax returns and other proof of financial condition as to those members seeking waiver of all or a portion of their fee or penalties on the ground of financial hardship.

SEC. 6. Section 6142 of the Business and Professions Code is amended to read:

6142. Upon the payment of the annual membership fees, including any costs imposed pursuant to Section 6140.7, and penalties imposed pursuant to Section 6143, each member shall receive a certificate issued under the direction of the board evidencing the payment.

SEC. 7. Section 6143 of the Business and Professions Code is amended to read:

6143. Any member, active or inactive, failing to pay any fees, penalties, or costs after they become due, and after two months written notice of his or her delinquency, shall be suspended from membership in the State Bar.

The member may be reinstated upon the payment of accrued fees or costs and such penalties as may be imposed by the board, not exceeding double the amount of delinquent dues, penalties, or costs.

SEC. 8. This act shall become operative only if Senate Bill 1498 of the 1987–88 Regular Session of the Legislature is enacted.

CHAPTER 1150

An act to add Section 42238.13 to the Education Code, relating to school finance.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 42238.13 is added to the Education Code, to read:

42238.13. (a) Notwithstanding any other provision of law, for any elementary school district that meets all of the criteria specified in subdivision (b), the base revenue limit for the 1988–89 fiscal year and each subsequent fiscal year computed pursuant to Section 42238 shall be computed as though the 1987–88 base revenue limit per unit of average daily attendance was two thousand nine hundred sixty-five dollars ($2,965). The county superintendent shall compute the revenue limit on that basis.

(b) The revenue limit computation described in subdivision (a) shall apply to any elementary school district that meets all of the following criteria:

(1) The minority enrollment in the district in the 1987–88 school year was greater than 98 percent.

(2) The AFDC enrollment in the district in the 1987–88 school year was greater than 32 percent.

(3) The district ranked in all of the following categories in the 1986–87 California Assessment Program as follows:

(A) Lowest 3 percent for third grade reading.

(B) Lowest 2 percent for sixth grade reading.

(C) Lowest 1 percent for eighth grade reading.

(D) Lowest 1 percent for sixth grade mathematics.

(E) Lowest 1 percent for eighth grade mathematics.

(F) Lowest 1 percent for history/social science.

(G) Lowest 1 percent for science.

(4) The district's 1987–88 base revenue limit was 2 percent below the statewide average for elementary districts and 7 percent below the county average for elementary districts.

(5) The district is under a court order as of the effective date of this act.

SEC. 2. The change in the revenue limit described in Section 1 of this act shall not take effect unless and until the settlement order of the San Mateo Superior Court in Tinsley v. Palo Alto Unified School District et al, Case No. 206010 (filed on March 10, 1986) is

amended to incorporate the provisions of this act and the amended order is approved by the parties in the case.

CHAPTER 1151

An act to repeal Section 100.41 of, and to add Section 30796.8 to, the Streets and Highways Code, relating to highways.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 100.41 of the Streets and Highways Code is repealed.

SEC. 2. Section 30796.8 is added to the Streets and Highways Code, to read:

30796.8. The department may permit any class of vehicles to use the bridge on a credit basis without posting the security required by Section 30158.

CHAPTER 1152

An act to amend Section 6320 of the Labor Code, relating to occupational safety and health.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 6320 of the Labor Code is amended to read:

6320. If, after inspection or investigation, the division issues a citation for a serious violation the division shall conduct a reinspection at the end of the period fixed for abatement of the violation or within a reasonable time thereafter, unless the violation is abated at the time of inspection or investigation.

CHAPTER 1153

An act to add Section 10541 to the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 10541 is added to the Insurance Code, to read:

10541. (a) Insurers authorized to deliver or issue for delivery life insurance policies in this state may deliver or issue for delivery one or more funding agreements, but the issuance or delivery of those funding agreements shall not be deemed to be doing the insurance business described in Section 700, a class of business as provided in Section 100 or 101, a "security" as defined in Section 821, or receipt of "gross premiums" as defined in Section 12221 or 12222 of the Revenue and Taxation Code. Notwithstanding the definition of "insurance" in Section 22 or the definition of "life insurance" in Section 101, the issuance or delivery of a funding agreement by an admitted life insurer in this state shall constitute a lawful activity of that insurer which is reasonably related to and incidental to its insurance activities as provided in this section. However, this section shall not authorize any insurer to transact, under the guise of funding agreements, any class of insurance not authorized by its certificate of authority.

(b) As used in this section, the term "funding agreement" means an agreement which authorizes an admitted life insurer to accept funds and which provides for an accumulation of those funds for the purpose of making one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies. However, the term "funding agreement" does not include any agreement in connection with the funding of one or more payments which are excludable from the gross income of the recipient under Section 104(a)(2) of the United States Internal Revenue Code, as it may be amended or renumbered from time to time.

(c) No amounts shall be guaranteed or credited under any funding agreement except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class.

(d) Amounts paid to the insurer, and proceeds applied under optional modes of settlement, under those funding agreements may be allocated by the insurer to one or more separate accounts pursuant to Section 10506.

(e) The commissioner may establish reasonable conditions or adopt reasonable regulations relating to (1) the reserves to be maintained by insurers issuing those funding agreements, (2) the

accounting and reporting of funds credited under those funding agreements, (3) the disclosure of information to be given to holders and prospective holders of those funding agreements, and (4) the qualification of persons selling those funding agreements on behalf of insurers.

(f) Notwithstanding any other provision of law, the commissioner shall have sole authority to regulate the issuance and sale of those funding agreements, including the persons selling those funding agreements on behalf of insurers.

CHAPTER 1154

An act to amend Section 1603.3 of, and to add Section 1621.5 to, the Health and Safety Code, relating to acquired immune deficiency syndrome.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1603.3 of the Health and Safety Code is amended to read:

1603.3. (a) Prior to a donation of blood or blood components each donor shall be notified in writing of, and shall have signed a written statement confirming the notification of, all of the following:

(1) That the blood or blood components shall be tested for evidence of antibodies to the probable causative agent of acquired immune deficiency syndrome.

(2) That donors found to have serologic evidence of the antibodies shall be placed on a confidential statewide Blood Donor Deferral Register without a listing of the reason for being included on the register.

(3) That the donor shall be notified of the test results in accordance with the requirements described in subdivision (c).

(4) That the donor blood or blood component which is found to have the antibodies shall not be used for transfusion.

(5) That blood or blood components shall not be donated for transfusion purposes by a person if the person has reason to believe that he or she has been exposed to acquired immune deficiency syndrome.

(6) That the donor is required to complete a health screening questionnaire to assist in the determination as to whether he or she has been exposed to acquired immune deficiency syndrome.

(b) A blood bank or plasma center shall incorporate voluntary means of self-deferral for donors. The means of self-deferral may include, but are not limited to, a form with checkoff boxes specifying that the blood donated is for research or test purposes only and a

telephone callback system for donors to use in order to inform the blood bank that blood donated should not be used for transfusion. The blood bank or plasma center shall inform the donor, in a manner that is understandable to the donor, that the self-deferral process is available and should be used if the donor has reason to believe that he or she is infected with the human immunodeficiency virus. The blood bank or plasma center shall also inform the donor that it is a felony pursuant to Section 1621.5 to donate blood if the donor knows that he or she has a diagnosis of AIDS or knows that he or she has tested reactive to the etiologic agent of AIDS or to antibodies to that agent.

(c) Blood or blood products from any donor initially found to have serologic evidence of antibodies to the probable causative agent of AIDS shall be retested for confirmation. Only if a further test confirms the conclusion of the earlier test shall the donor be notified of a reactive result by the blood bank or plasma center, as provided in paragraph (1) or (2) of this subdivision.

(1) The state department shall permit a blood bank to inform blood donors of the test result if all of the following apply:

(A) The alternative test sites required pursuant to Article 8 (commencing with Section 1630) are established and operational in the county where the blood bank is located.

(B) The state department has determined that the alternative test sites are functioning in an adequate manner in the county where the blood bank is located and has established a date after which these test sites were functioning in this manner.

After the date determined in subparagraph (B) is established, the blood bank shall wait three months. When the three-month period elapses, blood banks may inform a donor of blood or blood components of the test results no sooner than 60 days from the date of donation.

(2) In the case of a plasma center on or after the operative date of this section, a donor donating for the first or second time in any 60-day period shall not be notified of the test result, but upon a third or subsequent donation within that period, the plasma center may notify the donor of the test result.

The state department shall develop permissive guidelines for blood banks and plasma centers on the method or methods to be used to notify a donor of a test result. Each blood bank or plasma center shall, upon positive confirmation using the best available and reasonable techniques, provide the information to the state department for inclusion in the Donor Deferral Register. Blood banks and plasma centers shall provide the information on donations testing reactive for the antibodies to the probable causative agent of AIDS and carrier donors of viral hepatitis to the department on a single list in the same manner without specification of the reason the donor appears on the list.

(d) The Blood Donor Deferral Register, as described in subdivision (e) of Section 1603.1, shall include names of individuals

who are deferred from blood donations without identifying the reasons for deferral.

(e) Each blood bank or plasma center operating in California shall prominently display at each of its collection sites a notice which provides the addresses and phone numbers of sites, within the proximate area of the blood bank or plasma center, where tests provided pursuant to Article 8 (commencing with Section 1630) may be administered without charge.

(f) Notwithstanding any other provision of law, no civil liability or criminal sanction shall be imposed for disclosure of test results to a public health officer when the disclosure is necessary to locate and notify a blood donor of a reactive result if reasonable efforts by the blood bank or plasma center to locate the donor have failed. Upon completion of the public health officer's efforts to locate and notify a blood donor of a reactive result, all records obtained from the blood bank pursuant to this subdivision, or maintained pursuant to this subdivision, including, but not limited to, any individual identifying information or test results, shall be expunged by the public health officer.

SEC. 2. Section 1621.5 is added to the Health and Safety Code, to read:

1621.5. (a) It is a felony punishable by imprisonment in the state prison for two, four, or six years, for any person to donate blood, body organs or other tissue, semen to any medical center or semen bank that receives semen for purposes of artificial insemination, or breast milk to any medical center or breast milk bank that receives breast milk for purposes of distribution, whether he or she is a paid or a volunteer donor, who knows that he or she has acquired immune deficiency syndrome, as diagnosed by a physician and surgeon, or who knows that he or she has tested reactive to the etiologic agent of AIDS or to the antibodies to that agent. This section shall not apply to any person who is mentally incompetent or who self-defers his or her blood at a blood bank or plasma center pursuant to subdivision (b) of Section 1603.3 or who donates his or her blood for purposes of an autologous donation.

(b) In a criminal investigation for a violation of this section, no person shall disclose the results of a blood test to detect the etiologic agent of AIDS or antibodies to that agent to any officer, employee, or agent of a state or local agency or department unless the test results are disclosed as otherwise required by law pursuant to:

(1) A search warrant issued pursuant to Section 154 of the Penal Code.

(2) A judicial subpoena or subpoena duces tecum issued and served in compliance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of the Code of Civil Procedure.

(3) An order of a court.

For purposes of this section, "blood" means "human whole blood" and "human whole blood derivatives," as defined for purposes of this chapter and includes "blood components," as defined in subdivision

(*l*) of Section 1603.1.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1155

An act to amend and renumber Section 82048.5 of the Government Code, relating to elections.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 82048.5 of the Government Code, as added by Chapter 498 of the Statutes of 1985, is amended and renumbered to read:

82048.7. (a) "Sponsored committee" means a committee, other than a candidate controlled committee, which has one or more sponsors. Any person, except a candidate or other individual, may sponsor a committee.

(b) A person sponsors a committee if any of the following apply:

(1) The committee receives all or nearly all of its contributions from the person or its members, officers, employees, or shareholders.

(2) The person collects contributions for the committee by use of payroll deductions or dues from its members, officers, or employees.

(3) The person alone or in combination with other organizations, provides all or nearly all of the administrative services for the committee.

(4) The person, alone or in combination with other organizations, sets the policies for soliciting contributions or making expenditures of committee funds.

SEC. 2. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

CHAPTER 1156

An act to amend Sections 1656.2, 16020, and 16076 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 1656.2 of the Vehicle Code is amended to read:

1656.2. The department shall prepare and publish a printed summary describing the penalties for noncompliance with Sections 16000 and 16028, which shall be included with each motor vehicle registration, registration renewal, and transfer of registration and with each driver's license and license renewal. The printed summary may contain, but is not limited to, the following wording:

"IMPORTANT FACTS ABOUT ENFORCEMENT OF CALIFORNIA'S COMPULSORY FINANCIAL RESPONSIBILITY LAW

The Robbins-McAlister Financial Responsibility Act requires every driver to maintain proof of valid automobile liability insurance, bond, cash deposit, or self-insurance which has been approved by the Department of Motor Vehicles.

You must provide proof of financial responsibility after you are cited by a peace officer for a traffic violation. The act requires that you provide the officer with the name of your insurer and the policy identification number. Your insurer will provide written evidence of this number. The back of your vehicle registration form contains a space for writing this information. Failure to prove your financial responsibility can result in fines of up to two hundred forty dollars ($240) and loss of your driver's license. Falsification of proof can result in fines of up to five hundred dollars ($500) or 30 days in jail, or both.

Under existing law, if you are involved in an accident that results in damages over five hundred dollars ($500) or in any injury or fatality, you must file a report of the accident with the Department of Motor Vehicles within 10 days of the accident. If you fail to file a report or fail to provide evidence of financial responsibility on the report, your driving privilege will be suspended for one year. Your suspension notice will notify you of the department's action and of your right to a hearing. Your suspension notice will also inform you that if you request a hearing, it must be conducted within 30 days of your written request, and that a decision is to be rendered within 15 days of the conclusion of the hearing."

SEC. 2. Section 16020 of the Vehicle Code is amended to read:

16020. (a) Every driver and every owner of a motor vehicle shall at all times maintain in force one of the forms of financial responsibility specified in Section 16021, and shall at all times carry in the vehicle evidence of the form of financial responsibility in effect for the vehicle.

(b) For purposes of subdivision (a), evidence of financial responsibility has the meaning as provided in subdivision (b) of Section 16028.

SEC. 3. Section 16076 of the Vehicle Code is amended to read:

16076. (a) The department shall notify every person whose driving privilege is suspended, pursuant to Section 16070, of that person's right to apply for a restricted driving privilege authorized under Section 16072.

(b) For purposes of subdivision (a), the department shall prepare and publish a printed summary. The printed summary may contain, but is not limited to, the following wording:

"If your driving privilege is suspended due to involvement in an accident while you were uninsured, you may apply for a restricted license at any office of the Department of Motor Vehicles, accompanied with proof of financial responsibility, payment of a penalty fee of two hundred fifty dollars ($250), and, unless already paid, payment of a reissuance fee of fifteen dollars ($15).

The Mello-McAlister Restricted Employment Driving Privilege Act allows you to apply for a driver's license limiting you to driving to and from work, and during the course of your primary employment, during the one-year mandatory term of suspension. The restricted license will not be issued if any other suspension or revocation action has been taken against your driving privilege."

(c) This section shall be known and may be cited as the Mello-McAlister Restricted Employment Driving Privilege Act.

SEC. 4. Sections 1 and 3 of this act shall become operative on November 30, 1988.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide a timely means for the motoring public to be aware of the laws requiring proof of financial responsibility, it is necessary for the act to take effect immediately.

CHAPTER 1157

An act to add Section 6010.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 6010.6 is added to the Revenue and Taxation Code, to read:

6010.6. (a) Except as provided in subdivision (c), "sale" and "purchase," for the purposes of this part, do not include any of the following:

(1) The performance of any qualified production services in connection with the production of all or any part of any qualified motion picture. Persons performing those qualified production services are consumers of paintings, models, and art work used by those filming special effects, titles, or credits, and of film, tape, or other embodiment upon which sound, visual images, or computer-generated graphics are created or recorded, notwithstanding that title to the property may be transferred pursuant to the qualified production services contract.

(2) Any transfer of all or any part of any qualified motion picture, or any interest therein or any rights relating thereto, under either of the following circumstances:

(A) The transfer is made prior to the date that the qualified motion picture is exhibited or broadcast to its general audience.

(B) The transfer is made to any person or persons holding, either directly or indirectly, or by affiliation, any exploitation rights obtained prior to the date that the qualified motion picture is exhibited or broadcast to its general audience.

(b) For purposes of this section:

(1) "Motion picture" means any audiovisual work (at any stage of the production thereof) consisting of a series of related images, either on film, tape, or other embodiment, whether photographic, or otherwise, and for these purposes, includes all physical materials comprising part of, or synchronized with, the motion picture, including the original, duplicate, and other negatives, intermediary film products, tapes, prints and original, duplicate, and other sound or visual recordings created to accompany the pictorial material depicted in the motion picture.

(2) "Produce or production of any qualified motion picture" means to originate, create, invent, design, devise, develop, photograph, edit, record, imprint, adapt, alter, make, process, fabricate, assemble, construct, or manufacture all or any part of that qualified motion picture by any means, method, or devise of any kind or character, whether before or after commencement of principal

photography.

(3) "Qualified motion picture" means any motion picture, whether or not the production of that motion picture is completely finished, which is produced, adapted, or altered for exploitation in, on, or through any medium or by any device, including, but not limited to, a motion picture produced for exploitation in movie theaters, through any form of television, or videocassettes, videotapes, or videodiscs, in amusement parks, or on commercial carriers, for any purpose, including, but not limited to, for any entertainment, commercial, advertising, promotional, industrial, or educational purpose. Qualified motion picture includes, but is not limited to, all adapted versions thereof (whether adapted for exploitation in any language, for any media, or otherwise) creative advertising, and publicity materials, such as trailers, television spots, or featurettes. Qualified motion picture does not include motion pictures produced for private noncommercial use, such as weddings or graduations.

(4) "Qualified production services" means any fabrication performed by any person in any capacity (whether as an employee, agent, independent contractor, or otherwise) on film, tape, or other audiovisual embodiment in connection with the production of all or any part of any qualified motion picture, including, but not limited to, photography, sound, music, special effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, dubbing, mixing, editing, or cutting services. "Qualified production services" do not include services or other work to manufacture release prints or to duplicate tapes for exhibition or broadcast.

(5) "Transfer" means any change of title or possession in any manner or form by any means whatsoever, conditional or otherwise, including, but not limited to, any sale, assignment, exchange, lease, license, or barter.

(6) "Rights relating to any qualified motion picture" includes, but is not limited to, any and all rights to produce or exploit all or any part of the qualified motion picture by any means and in or through any medium.

(7) "Exploit" or "exploitation" with respect to any qualified motion picture includes, but is not limited to, exhibiting, broadcasting, telecasting, displaying, projecting, transmitting, duplicating, reproducing, distributing, promoting, advertising, commercializing, merchandising, marketing, or otherwise using all or any part of the qualified motion picture in any or all media markets and territories and by any or all means, methods, modes, processes, and devices or delivery systems of every kind and character. "Exploitation" includes each and every act comprising part of any phase of the process of exploiting all or any qualified motion picture, whether before or after commencement of principal photography.

(c) Subdivision (a) shall not apply to any of the following:

(1) Any sale or purchase of raw film or videotape stock.

(2) Any sale or purchase of release prints or tapes for exhibition or broadcast.

(3) Any rentals or leases of videocassettes, videotapes, or videodiscs for private use, as described in paragraph (7) of subdivision (g) of Section 6006 and paragraph (7) of subdivision (e) of Section 6010.

SEC. 2. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1158

An act to amend Section 25359.7 of the Health and Safety Code, relating to hazardous substances, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 25359.7 of the Health and Safety Code, as amended by Chapter 12 of the Statutes of 1988, is amended to read:

25359.7. (a) Any owner of nonresidential real property who knows, or has reasonable cause to believe, that any release of hazardous substance has come to be located on or beneath that real property shall, prior to the sale, lease, or rental of the real property by that owner, give written notice of that condition to the buyer, lessee, or renter of the real property. Failure of the owner to provide written notice when required by this subdivision to the buyer, lessee, or renter shall subject the owner to actual damages and any other remedies provided by law. In addition, where the owner has actual knowledge of the presence of any release of a material amount of a hazardous substance and knowingly and willfully fails to provide written notice to the buyer, lessee, or renter, as required by this subdivision, the owner is liable for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation.

(b) Any lessee or renter of real property who knows or has reasonable cause to believe that any release of a hazardous substance has come or will come to be located on or beneath that real property shall, within a reasonable period of time, either prior to the release or following the discovery by the lessee or renter of the presence or believed presence of the hazardous substance release, give written notice of that condition to the owner of the real property or to the

lessor under the lessee's or renter's lease or rental agreement.

(1) A lessee or renter who fails to provide written notice when required by this subdivision to the owner or lessor is subject to actual damages and any other remedy provided by law.

(2) If the lessee or renter has knowledge of the presence of a release of a material amount of a hazardous substance, or of a hazardous substance release that is required to be reported to a state or local agency pursuant to law, on or under the real property leased or rented by the lessee or renter and knowingly and willfully fails to provide written notice when required by this subdivision to the owner or lessor, both of the following shall apply:

(A) The failure is deemed to constitute a default, upon the owner's or lessor's written notice to the lessee or renter, under the lessee's or renter's lease or rental agreement, except that this subparagraph does not apply to lessees and renters of property used exclusively for residential purposes.

(B) The lessee or renter is liable for a civil penalty not to exceed five thousand dollars ($5,000) for each separate violation.

(3) A lessee or renter may cure a default under the lessee's or renter's lease or rental agreement which resulted from a violation of this subdivision, by promptly commencing and completing the removal of, or taking other appropriate remedial action with respect to, the hazardous substance release. The removal or remedial action shall be conducted in accordance with all applicable laws and regulations and in a manner which is reasonably acceptable to, and which is approved in writing by, the owner or lessor. This paragraph does not relieve the lessee or renter of any liability for actual damages or for any civil penalty for a violation of this subdivision.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the economic security of existing leasehold interests and to preserve public health and safety by encouraging the notification of hazardous conditions, it is necessary that this act take effect immediately.

CHAPTER 1159

An act to amend Sections 6007, 6046, 6046.5, 6049, 6054, 6068, 6084, 6086.5, 6086.7, 6086.8, 6086.9, 6086.11, 6087, 6093, 6094.5, 6106.5, 6126, 6140.5, 6180.4, 6180.5, and 6180.6 of, to add Sections 6044.5, 6079.1, 6081.1, 6086.2, 6086.12, 6086.65, 6090.6, 6091.1, 6091.2, 6132, and 6133 to, to add and repeal Section 6140.35 of, and to repeal Sections 6079 and 6086.6 of, the Business and Professions Code, and to amend Section 2018 of the Code of Civil Procedure, relating to attorneys.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 6007 of the Business and Professions Code is amended to read:

6007. (a) When a member requires involuntary treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of Division 5 of, or Part 2 (commencing with Section 6250) of Division 6 of the Welfare and Institutions Code, or when under an order pursuant to Section 3051, 3106.5, or 3152 of the Welfare and Institutions Code he or she has been placed in or returned to inpatient status at the California Rehabilitation Center or its branches, or when he or she has been determined insane or mentally incompetent and is confined for treatment or placed on outpatient status pursuant to the Penal Code, or on account of his or her mental condition a guardian or conservator, for his or her estate or person or both, has been appointed, the Board of Governors or an officer of the State Bar shall enroll the member as an inactive member.

The clerk of any court making an order containing any of the determinations or adjudications referred to in the immediately preceding paragraph shall send a certified copy of that order to the State Bar at the same time that the order is entered.

The clerk of any court with which is filed a notice of certification for intensive treatment pursuant to Article 4 (commencing with Section 5250) of Chapter 2 of Division 5 of the Welfare and Institutions Code, upon receipt of the notice, shall transmit a certified copy of it to the State Bar.

The State Bar may procure a certified copy of any determination, order, adjudication, appointment, or notice when the clerk concerned has failed to transmit one or when the proceeding was had in a court other than a court of this state.

In the case of an enrollment pursuant to this subdivision, the State Bar shall terminate the enrollment when the member has had the fact of his or her restoration to capacity judicially determined, upon the member's release from inpatient status at the California Rehabilitation Center or its branches pursuant to Section 3053, 3109, or 3151 of the Welfare and Institutions Code, or upon the member's

unconditional release from the medical facility pursuant to Section 5304 or 5305 of the Welfare and Institutions Code; and on payment of all fees required.

When a member is placed in, returned to, or released from inpatient status at the California Rehabilitation Center or its branches, or discharged from the narcotics treatment program, the Director of Corrections or his or her designee shall transmit to the State Bar a certified notice attesting to that fact.

(b) The board shall also enroll a member of the State Bar as an inactive member in each of the following cases:

(1) A member asserts a claim of insanity or mental incompetence in any pending action or proceeding, alleging his or her inability to understand the nature of the action or proceeding or inability to assist counsel in representation of the member.

(2) The court makes an order assuming jurisdiction over the member's law practice, pursuant to Section 6180.5 or 6190.3.

(3) After notice and opportunity to be heard before the board or a committee, the board finds that the member, because of mental infirmity or illness, or because of the habitual use of intoxicants or drugs, is (i) unable or habitually fails to perform his or her duties or undertakings competently, or (ii) unable to practice law without substantial threat of harm to the interests of his or her clients or the public. No proceeding pursuant to this paragraph shall be instituted unless the board or a committee finds, after preliminary investigation, or during the course of a disciplinary proceeding, that probable cause exists therefor. The determination of probable cause is administrative in character and no notice or hearing is required.

In the case of an enrollment pursuant to this subdivision, the board shall terminate the enrollment upon proof that the facts found as to the member's disability no longer exist and on payment of all fees required.

(c) (1) The board may order the involuntary inactive enrollment of an attorney upon a finding that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or to the public or upon a finding based on all the available evidence, including affidavits, that the attorney has not complied with Section 6002.1 and cannot be located after reasonable investigation.

(2) In order to find that the attorney's conduct poses a substantial threat of harm to the interests of the attorney's clients or the public pursuant to this subdivision, each of the following factors shall be found, based on all the available evidence, including affidavits:

(A) The attorney has caused or is causing substantial harm to the attorney's clients or the public.

(B) The attorney's clients or the public are likely to suffer greater injury from the denial of the involuntary inactive enrollment than the attorney is likely to suffer if it is granted, or there is a reasonable likelihood that the harm will reoccur or continue. Where the evidence establishes a pattern of behavior, including acts likely to cause substantial harm, the burden of proof shall shift to the attorney

to show that there is no reasonable likelihood that the harm will reoccur or continue.

(C) There is a reasonable probability that the State Bar will prevail on the merits of the underlying disciplinary matter.

(3) In the case of an enrollment under this subdivision, the underlying matter shall proceed on an expedited basis.

(4) The filing of a recommendation of disbarment after hearing or default, creates, for purposes of this subdivision, a rebuttable presumption that the factors enumerated under paragraph (2) are established. The presumption described in this section is one affecting the burden of proof as defined in Section 605 of the Evidence Code.

(5) The board shall formulate and adopt rules of procedure to implement this subdivision.

In the case of an enrollment pursuant to this subdivision, the board shall terminate the involuntary inactive enrollment upon proof that the attorney's conduct no longer poses a substantial threat of harm to the interests of the attorney's clients or the public or where an attorney who could not be located proves compliance with Section 6002.1.

(d) (1) The board may order the involuntary inactive enrollment of an attorney for violation of probation upon the occurrence of all of the following:

(A) The attorney is under a suspension order any portion of which has been stayed during a period of probation.

(B) The board finds that probation has been violated.

(C) The board recommends to the court that the attorney receive an actual suspension on account of the probation violation or other disciplinary matter.

(2) The board shall terminate an enrollment under this subdivision upon expiration of a period equal to the period of stayed suspension in the probation matter, or until the court makes an order regarding the recommended actual suspension in the probation matter, whichever occurs first.

(3) If the court orders a period of actual suspension in the probation matter, any period of involuntary inactive enrollment pursuant to this subdivision shall be credited against the period of actual suspension ordered.

(e) (1) The board may order the involuntary, inactive enrollment of a member where it appears that the member has failed to file an answer to the notice initiating a disciplinary proceeding conducted under this chapter within the time allowed by the State Bar Rules of Procedure and any extensions granted thereunder, and all of the following conditions are met:

(A) The notice was duly served pursuant to subdivision (c) of Section 6002.1.

(B) The notice contained the following language at or near the beginning of the notice, in capital letters:

IF YOU FAIL TO FILE AN ANSWER TO THIS NOTICE

WITHIN THE TIME ALLOWED BY STATE BAR RULES, INCLUDING EXTENSIONS, YOU MAY BE ENROLLED AS AN INVOLUNTARY INACTIVE MEMBER OF THE STATE BAR AND WILL NOT BE PERMITTED TO PRACTICE LAW UNTIL AN ANSWER IS FILED.

(C) After the initial time to answer has passed, a letter has been served on the member through regular mailing again warning the member of the consequences of failing to file an answer, and the member has not filed an answer within 15 days after the letter was served.

(2) The board shall terminate the involuntary inactive enrollment of a member under this subdivision when an answer to the notice is filed on behalf of the member, or when a proposed answer is filed with a request to set aside the member's default.

(3) The enrollment and termination under this subdivision are administrative in character and no hearing is required.

(4) Upon the involuntary inactive enrollment of a member under this subdivision, the notice required by subdivision (b) of Section 6092.5 shall be promptly given.

(5) The board may delegate its authority under this subdivision to the presiding referee or presiding judge of the State Bar Court or his or her designee.

(f) The pendency or determination of a proceeding or investigation provided for by this section shall not abate or terminate a disciplinary investigation or proceeding except as required by the facts and law in a particular case.

(g) No membership fees shall accrue against the member during the period he or she is enrolled as an inactive member pursuant to this section.

(h) The board may order a full range of interim remedies or final discipline short of involuntary inactive enrollment, including, but not limited to, conditions of probation following final discipline, or directly ordered interim remedies, to restrict or supervise an attorney's practice of law, as well as proceedings under subdivision (a), (b), (c), or (d), or under Section 6102 or 6190. They may include restrictions as to scope of practice, monetary accounting procedures, review of performance by probation or other monitors appointed by the board, or such other measures as may be determined, after hearing, to protect present and future clients from likely substantial harm. These restrictions may be imposed upon a showing as provided in subdivision (c), except that where license restriction is proposed, the showing required of the State Bar under the factors described in subparagraph (B) of paragraph (2) of subdivision (c) need not be made.

SEC. 2. Section 6044.5 is added to the Business and Professions Code, to read:

6044.5. When an investigation or formal proceeding concerns alleged misconduct which may subject a member to criminal prosecution for any felony, or any lesser crime committed during the

course of the practice of law, or in any manner that the client of the member was a victim, or may subject the member to disciplinary charges in another jurisdiction, the State Bar shall disclose, in confidence, information not otherwise public under this chapter to the appropriate agency responsible for criminal or disciplinary enforcement or exchange such information with that agency.

SEC. 2.3. Section 6046 of the Business and Professions Code is amended to read:

6046. The board may establish an examining committee having the power:

(a) To examine all applicants for admission to practice law.

(b) To administer the requirements for admission to practice law.

(c) To certify to the Supreme Court for admission those applicants who fulfill the requirements provided in this chapter.

The examining committee shall be comprised of 19 members, 10 of whom shall be members of the State Bar or judges of courts of record in this state and nine of whom shall be public members who have never been members of the State Bar or admitted to practice before any court in the United States. At least one of the attorney members shall have been admitted to practice law in this state within three years from the date of their appointment to the examining committee.

SEC. 2.5. Section 6046.5 of the Business and Professions Code is amended to read:

6046.5. Three of the nonattorney members of the examining committee shall be appointed by the Senate Rules Committee, three of the nonattorney members shall be appointed by the Speaker of the Assembly, and three of the nonattorney members shall be appointed by the Governor. They shall serve for a term of four years, except that of the initial nonattorney members so appointed, two shall serve for two years and four shall serve for four years, as shall be determined by lot. The nonattorney members appointed pursuant to the amendment of this code section during the 1987–88 Regular Session of the Legislature shall serve for four years. The nonattorney members shall have the same rights, powers, and privileges as any attorney member except that such a member shall not participate in the drafting of questions submitted to applicants on the State Bar entrance examination.

SEC. 3. Section 6049 of the Business and Professions Code is amended to read:

6049. (a) In the conduct of investigations and upon the trial and hearing of all matters, the board and any committee having jurisdiction, including the examining committee, may do all of the following:

(1) Take and hear evidence pertaining to the proceeding.

(2) Administer oaths and affirmations.

(3) Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

(b) In the conduct of investigations, the chief trial counsel or his or her designee, may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the investigation.

(c) In the conduct of all formal proceedings, each party may compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the proceeding.

SEC. 4. Section 6054 of the Business and Professions Code is amended to read:

6054. State and local law enforcement and licensing bodies and departments, officers and employees thereof, and officials and attachés of the courts of this state shall cooperate with and give reasonable assistance and information, including the providing of state summary criminal history information and local summary criminal history information, to the State Bar of California or any authorized representative thereof, in connection with any investigation or proceeding within the jurisdiction of the State Bar of California, regarding the admission to the practice of law or discipline of attorneys or their reinstatement to the practice of law.

The State Bar of California shall require that an applicant for admission or reinstatement to the practice of law in California, or may require a member pursuant to subdivision (k) or (*l*) of Section 6068, be fingerprinted in order to establish the identity of the applicant and in order to determine whether the applicant or member has a record of criminal conviction in this state or in other states. The information obtained as a result of the fingerprinting of an applicant or member shall be limited to the official use of the State Bar in establishing the identity of the applicant and in determining the character and fitness of the applicant for admission or reinstatement, and in discovering prior and subsequent criminal arrests of an applicant, member, or applicant for reinstatement. All fingerprint records of applicants who are denied admission to the State Bar shall be destroyed within one year of the decision not to admit. All fingerprint records of applicants admitted or members reinstated, or provided pursuant to subdivision (k) or (*l*) of Section 6068, shall be retained thereafter for the limited purpose of criminal arrest notification.

All costs of providing criminal history information to, and the processing of fingerprints for, the State Bar, except for print furnishing and encoding, as required by this section, shall be borne by the State Bar.

SEC. 5. Section 6068 of the Business and Professions Code is amended to read:

6068. It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(b) To maintain the respect due to the courts of justice and judicial officers.

(c) To counsel or maintain such actions, proceedings, or defenses only as appear to him or her legal or just, except the defense of a person charged with a public offense.

(d) To employ, for the purpose of maintaining the causes confided to him or her such means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.

(f) To abstain from all offensive personality, and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he or she is charged.

(g) Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest.

(h) Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed.

(i) To cooperate and participate in any disciplinary investigation or other regulatory or disciplinary proceeding pending against the attorney. However, this subdivision shall not be construed to deprive an attorney of any constitutional or statutory privileges.

(j) To comply with the requirements of Section 6002.1.

(k) To comply with all conditions attached to any disciplinary probation, including a probation imposed with the concurrence of the attorney.

(*l*) To keep all agreements made in lieu of disciplinary prosecution with the agency charged with attorney discipline.

(m) To respond promptly to reasonable status inquiries of clients and to keep clients reasonably informed of significant developments in matters with regard to which the attorney has agreed to provide legal services.

(n) To provide copies to the client of certain documents under time limits and as prescribed in a rule of professional conduct which the board shall adopt.

(o) To report to the agency charged with attorney discipline, in writing, within 30 days of the time the attorney has knowledge of any of the following:

(1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.

(2) The entry of judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.

(3) The imposition of any judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars ($1,000).

(4) The bringing of an indictment or information charging a felony against the attorney.

(5) The conviction of the attorney, including any verdict of guilty, or plea of guilty or no contest, of any felony, or any misdemeanor committed in the course of the practice of law, or in any manner such that a client of the attorney was the victim, or a necessary element of which, as determined by the statutory or common law definition of the misdemeanor, involves improper conduct of an attorney, including dishonesty or other moral turpitude, or an attempt or a conspiracy or solicitation of another to commit a felony or any such misdemeanor.

(6) The imposition of discipline against the attorney by any professional or occupational disciplinary agency or licensing board, whether in California or elsewhere.

(7) Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.

(8) As used in this subdivision, "against the attorney" includes claims and proceedings against any firm of attorneys for the practice of law in which the attorney was a partner at the time of the conduct complained of and any law corporation in which the attorney was a shareholder at the time of the conduct complained of unless the matter has to the attorney's knowledge already been reported by the law firm or corporation.

(9) The State Bar may develop a prescribed form for the making of reports required by this section, usage of which it may require by rule or regulation.

(10) This subdivision is only intended to provide that the failure to report as required herein may serve as a basis of discipline.

SEC. 6. Section 6079 of the Business and Professions Code is repealed.

SEC. 7. Section 6079.1 is added to the Business and Professions Code, to read:

6079.1. (a) The Supreme Court shall appoint a presiding judge of the State Bar Court and no fewer than six hearing judges, and such additional hearing judges as may be authorized by the Legislature, to efficiently decide any and all regulatory matters pending before the Hearing Department of the State Bar Court. The presiding judge and all other judges of that department shall be appointed for a term of six years and may be reappointed for additional six-year terms. Any judge appointed under this section shall be subject to admonition, censure, removal, or retirement by the Supreme Court upon the same grounds as provided for judges of courts of record of this state.

(b) Judges of the State Bar Court appointed under this section shall not engage in the private practice of law. The State Bar Court shall be broadly representative of the ethnic, sexual, and racial diversity of the population of California and composed in accordance with Sections 11140 and 11141 of the Government Code. Each judge:

(1) Shall have been a member of the State Bar for at least five years.

(2) Shall not have any record of the imposition of discipline as an attorney in California or any other jurisdiction.

(3) Shall meet such other requirements as may be established by subdivision (d) of Section 12011.5 of the Government Code.

(c) The board shall screen and rate all applicants for appointment or reappointment as a State Bar Court judge and submit its nominations to the Supreme Court, unless otherwise directed by the Supreme Court. The board shall submit its initial nominations to the Supreme Court by April 1, 1989. The board shall hold hearings and allow public comment on the qualifications of nominees submitted to the Supreme Court. Written comment received by the board and any hearing record shall be transmitted to the Supreme Court together with the nominations. The board shall submit no fewer than three nominees for each available judicial position.

(d) For judges appointed pursuant to this section or Section 6086.65, the board shall fix and pay reasonable compensation and expenses and provide adequate supporting staff and facilities. Hearing judges shall be paid the same salary as municipal court judges. The presiding judge shall be paid the same salary as a superior court judge.

(e) From among the members of the State Bar or retired judges, the board may appoint pro tempore judges to decide matters in the Hearing Department of the State Bar Court when a judge of the State Bar is unavailable to serve without undue delay to the proceeding. The board may set the qualifications, terms, and conditions of service for pro tempore judges and may, in its discretion, compensate some or all of them out of funds appropriated by the board for this purpose.

(f) The board may fix a date no later than September 1, 1989, on which all proceedings pending before the Hearing Department of the State Bar Court shall be decided by a judge or pro tempore judge appointed under this section. From and after that date, a judge or pro tempore judge appointed under this section shall hear every regulatory matter pending in the Hearing Department of the State Bar Court as to which the taking of testimony or offering of evidence at trial has not commenced, and when so assigned, shall sit as the sole adjudicator, except for rulings which are to be made by the presiding judge of the State Bar Court or referees of other departments of the State Bar Court.

(g) Any judge or pro tempore judge of the State Bar Court as well as any employee of the State Bar assigned to the State Bar Court shall have the same immunity which attaches to judges in judicial proceedings in this state. Nothing in this subdivision limits or alters the immunities accorded the State Bar, its officers and employees, or any judge or referee of the State Bar Court as they existed prior to January 1, 1989. This subdivision does not constitute a change in, but is cumulative with, existing law.

(h) Nothing in this section shall be construed to prohibit the board from appointing persons to serve without compensation to arbitrate

fee disputes under Article 13 (commencing with Section 6200) of this chapter or to monitor the probation of a member of the State Bar, whether those appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, serve in the State Bar Court or otherwise.

(i) Any retired judge or referee appointed under Section 6079, as added by Chapter 1114 of the Statutes of 1986, prior to July 1, 1989, or any other authority may continue on or after July 1, 1989, to exercise the duties and powers authorized by that section or of the referee's appointment as to any matter assigned to him or her unless the matter has been reassigned under subdivision (f).

SEC. 8. Section 6081.1 is added to the Business and Professions Code, to read:

6081.1. Nothing in Sections 6080 and 6081 shall require the State Bar Court to transcribe oral testimony unless ordered by the Supreme Court or requested by a party at the party's expense.

SEC. 9. Section 6084 of the Business and Professions Code is amended to read:

6084. (a) When no petition to review or to reverse or modify has been filed by either party within the time allowed therefor, or the petition has been denied, the decision or order of the State Bar Court shall be final and enforceable. In any case in which a petition to review or to reverse or modify is filed by either party within the time allowed therefor, the Supreme Court shall make such order as it may deem proper in the circumstances. Nothing in this subdivision abrogates the Supreme Court's authority, on its own motion, to review de novo the decision or order of the State Bar Court.

(b) Notice of such order shall be given to the member and to the State Bar.

(c) A petition for rehearing may be filed within the time generally provided for petitions for rehearing in civil cases.

(d) For willful failure to comply with a disciplinary order or an order of the Supreme Court, or any part thereof, a member may be held in contempt of court. The contempt action may be brought by the State Bar in any of the following courts:

(1) In the Los Angeles or San Francisco Superior Court.

(2) In the superior court of the county of the member's address as shown on current State Bar membership records.

(3) In the superior court of the county where the act or acts occurred.

(4) In the superior court of the county in which the member's regular business address is located.

Changes of venue may be requested pursuant to the applicable provisions of Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure.

SEC. 10. Section 6086.2 is added to the Business and Professions Code, to read:

6086.2. All State Bar records pertaining to admissions, membership, and the administration of the program authorized by Article 14 of this chapter shall be available to the Office of Trial

Counsel and the Office of Investigations for use in the investigation and prosecution of complaints against members of the State Bar, except to the extent that disclosure is prohibited by law.

SEC. 11. Section 6086.5 of the Business and Professions Code is amended to read:

6086.5. The board of governors shall establish a State Bar Court, to act in its place and stead in the determination of disciplinary and reinstatement proceedings and proceedings pursuant to subdivisions (b) and (c) of Section 6007 to the extent provided by rules adopted by the board of governors pursuant to this chapter. In these proceedings the State Bar Court may exercise the powers and authority vested in the board of governors by this chapter, including those powers and that authority vested in committees of, or established by, the board, except as limited by rules of the board of governors within the scope of this chapter.

For the purposes of Sections 6007, 6043, 6049, 6049.2, 6050, 6051, 6052, 6077 (excluding the first sentence), 6078, 6080, 6081, and 6082, "board" includes the State Bar Court.

Nothing in this section shall authorize the State Bar Court to adopt rules of professional conduct or rules of procedure.

The Executive Committee of the State Bar Court may adopt rules of practice for the conduct of all proceedings within its jurisdiction. These rules may not conflict with the rules of procedure adopted by the board, unless approved by the Supreme Court.

SEC. 12. Section 6086.6 of the Business and Professions Code is repealed.

SEC. 13. Section 6086.65 is added to the Business and Professions Code, to read:

6086.65. (a) There is a Review Department of the State Bar Court, which consists of the Presiding Judge of the State Bar Court, one Lay Judge, and one Review Department Judge. The judges of the Review Department shall be nominated, appointed, and subject to discipline as provided by subdivision (a) of Section 6079.1, shall be qualified as provided by subdivision (b) of Section 6079.1, and shall be compensated as provided for the Presiding Judge by subdivision (d) of Section 6079.1. However, the Lay Judge, who shall be a person who has never been a member of the State Bar or admitted to practice law before any court in the United States, and the Review Department Judge may be appointed to, and paid as, positions occupying one-half the time and pay of the Presiding Judge. Candidates shall be rated and screened by the board as provided in subdivision (c) of Section 6079.1.

(b) The board may fix a date no later than September 1, 1989, on which all proceedings pending before the Review Department shall be decided by judges of the Review Department appointed under this section. The Review Department in existence on June 30, 1989, may continue on and after July 1, 1989, to exercise the duties and powers under prior Section 6086.6 as to any matter assigned to it prior to the date set by the board pursuant to this section.

(c) The Presiding Judge of the State Bar Court shall appoint an Executive Committee of the State Bar Court of no fewer than seven persons, including one person who has never been a member of the State Bar or admitted to practice law before any court in the United States. The Executive Committee may adopt rules of practice for the operation of the State Bar Court as provided in Section 6086.5.

(d) Any decision or order reviewable by the Review Department and issued by a judge of the State Bar Court appointed pursuant to Section 6079.1 may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion. The board may provide by rule that other decisions or orders reviewable by the Review Department may be reviewed only upon timely request of a party to the proceeding and not on the Review Department's own motion.

SEC. 14. Section 6086.7 of the Business and Professions Code is amended to read:

6086.7. If it appears to the court that a contempt holding imposed against an attorney involves grounds warranting discipline under this chapter, the court entering the final order of contempt may transmit to the State Bar a copy of the relevant minutes, final order, and transcript, if one exists.

Whenever a reversal of a judgment in a judicial proceeding is based in whole or in part upon gross misconduct, incompetent representation, or willful misrepresentation by counsel, the court that ordered reversal of the judgment shall cause the matter to be reported to the State Bar of California for investigation with regard to the appropriateness of initiating disciplinary action against the attorney. The court shall also notify the attorney involved that the matter has been referred to the State Bar for investigation.

SEC. 15. Section 6086.8 of the Business and Professions Code is amended to read:

6086.8. (a) Within 20 days after a judgment by a court of this state that a member of the State Bar of California is liable for any damages resulting in a judgment against the attorney in any civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, the court which rendered the judgment shall report that fact in writing to the State Bar of California.

(b) Every claim or action for damages against a member of the State Bar of California for fraud, misrepresentation, breach of fiduciary duty, or negligence committed in a professional capacity shall be reported to the State Bar of California within 30 days of receipt by the admitted insurer or licensed surplus brokers providing professional liability insurance to that member of the State Bar.

(c) An attorney who does not possess professional liability insurance shall send a complete written report to the State Bar as to any settlement, judgment, or arbitration award described in subdivision (b), in the manner specified in that subdivision.

SEC. 16. Section 6086.9 of the Business and Professions Code is

amended to read:

6086.9. The Attorney General shall appoint a State Bar Discipline Monitor. The Attorney General shall advertise the availability of the position and conduct interviews of candidates for the position.

The applicant for the position of discipline monitor shall have investigative experience, shall be familiar with California laws and procedures, and, preferably, shall be familiar with the rules and procedures of the State Bar lawyer discipline system and relevant administrative procedures. The discipline monitor may be a state employee or his or her services may be provided pursuant to contract.

The Attorney General shall appoint the discipline monitor by no later than January 30, 1987. The Attorney General may terminate or dismiss the discipline monitor.

The Attorney General shall assist the discipline monitor in the performance of his or her duties as provided by this section. The discipline monitor shall be under the supervision of the Attorney General.

The discipline monitor shall monitor and evaluate the State Bar discipline system and procedures, with highest priority accorded to the disciplinary reforms and system established by the act which amended this section at the 1987–88 Regular Session of the Legislature. The monitoring shall be on a continuing basis for a period of no more than five years and shall include, but not be limited to, the reduction of the complaint backlog; the speeding up of the handling of complaints and in the rendering of initial decisions on complaints; the efficiency of the system; the fairness and courtesy given to complainants; the adequacy of the staffing and the budget allocation allocated to the discipline section of the State Bar; the consistency in the application of sanctions or discipline imposed; the implementation of laws affecting discipline and the State Bar's disciplinary standards and rules; staff concerns regarding disciplinary matters or procedures; and the State Bar's cooperation with other governmental entities charged with enforcing related laws and regulations that affect members of the State Bar.

The discipline monitor shall exercise no authority over the State Bar's discipline operations or staff but the State Bar and its staff shall cooperate with him or her. The discipline monitor shall have the same investigative authority as the Attorney General.

The State Bar shall provide data, information, and case files as requested by the discipline monitor in order to perform all of his or her duties pursuant to this section.

The discipline monitor shall submit initial written and oral reports of his or her findings and conclusions to the Assembly and Senate Judiciary Committees no later than June 1, 1987. The discipline monitor shall provide copies of these written reports to the California Supreme Court and to the Senate Rules Committee by that date and he or she shall also be available to make oral reports to those entities, if requested. The discipline monitor shall make subsequent written

and oral reports to the Assembly and Senate Judiciary Committees every six months thereafter; copies of the written reports shall also be submitted to the California Supreme Court, to the Senate Rules Committee, and to the Attorney General, and the discipline monitor shall also be available to make oral reports to those entities, if requested. The discipline monitor may also provide additional information to any of the above entities at his or her discretion or at their request. The reports by the discipline monitor shall also be made available to the public and to the media. The discipline monitor shall make every effort to provide the State Bar with an opportunity to reply to any facts, findings, issues, or conclusions on which it may disagree. All funds collected by the Board of Governors of the State Bar for the purpose of supporting the State Bar Discipline Monitor shall be remitted to the Controller as revenue to the General Fund.

This section shall remain in effect only until January 1, 1992, and on that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 17. Section 6086.11 of the Business and Professions Code is amended to read:

6086.11. The board of governors shall establish a committee, known as the complainants' grievance panel. The panel shall exercise all of the following powers:

(a) Periodically audit dismissals of complaints in lieu of disciplinary prosecution by the trial counsel and the imposition of admonitions by the chief trial counsel in lieu of disciplinary prosecution, and may order rehearing or further investigation or recommend that the chief trial counsel file a notice to show cause or take other formal disciplinary action.

(b) Upon request for review by complainants, review the dismissals and the imposition of admonitions in lieu of disciplinary prosecution, and may order rehearing or further investigation or recommend that the chief trial counsel file a notice to show cause or take other formal disciplinary action.

The complainants' grievance panel shall consist of seven members. Three members of the panel shall consist of public members who have never been members of the State Bar or admitted to practice before any court in the United States. The Governor shall appoint one nonattorney member who shall serve for a term of four years, except that for the initial term after enactment of this section the first nonattorney appointed shall serve for two years. The Senate Committee on Rules shall appoint one nonattorney member who shall serve for a term of four years. The Speaker of the Assembly shall appoint one nonattorney member who shall serve a term of four years, except that for the initial term after enactment of this section the first nonattorney shall serve for three years.

The board of governors shall appoint four members who shall be members of the State Bar and who shall serve for a term of four years, except that for the initial term after enactment of this section one

attorney first appointed shall serve for two years, one for three years, and two for four years, as determined by lot.

Each respective appointing authority shall fill any vacancy in and make any reappointment to each respective office.

The complainants' grievance panel shall provide a written report at least once yearly to the Discipline Committee of the Board of Governors of the State Bar as to its findings and recommendations concerning dismissed cases, including its findings as to whether too many or too few cases are being dismissed, and whether varying standards are being used.

It also shall provide a copy of the report to the Senate Rules Committee and to the Senate and Assembly Judiciary Committees at the same time it submits its report to the board.

(c) The public members of the complainants' grievance panel shall be entitled to receive a per diem at the same daily rate specified in Section 11564.5 of the Government Code for each day actually spent in the discharge of their official duties.

SEC. 18. Section 6086.12 is added to the Business and Professions Code, to read:

6086.12. The Legislative Analyst shall evaluate the workload of the State Bar Court as established by the act which added this section at the 1987–88 Regular Session of the Legislature. A final written report of his or her findings and conclusions shall be submitted to the Assembly and Senate Judiciary Committees no later than December 31, 1991.

In order to conduct this evaluation, the State Bar shall submit to the Legislative Analyst quarterly, beginning October 1, 1989, information that includes, but is not limited to, statistics on the productivity of judges and clerks of the State Bar Court, including the number of rulings, orders, dispositions, and advisory memos produced, the number and type of hearings and appeals, and the complexity of cases. The State Bar shall also submit to the Legislative Analyst quarterly data regarding the use of pro tempore judges and the productivity of the State Bar Court Clerk's Office.

SEC. 19. Section 6087 of the Business and Professions Code is amended to read:

6087. Nothing in this chapter shall be construed as limiting or altering the powers of the Supreme Court of this State to disbar or discipline members of the bar as this power existed prior to the enactment of Chapter 34 of the Statutes of 1927, relating to the State Bar of California.

Notwithstanding any other provision of law, the Supreme Court may by rule authorize the State Bar to take any action otherwise reserved to the Supreme Court in any matter arising under this chapter or initiated by the Supreme Court; provided, that any such action by the State Bar shall be reviewable by the Supreme Court pursuant to such rules as the Supreme Court may prescribe.

SEC. 20. Section 6090.6 is added to the Business and Professions Code, to read:

6090.6. In a disciplinary proceeding, the State Bar shall have access, on an ex parte basis, to all nonpublic court records relevant to the competence or performance of its members , provided that these records shall remain confidential. This access, for investigation and enforcement purposes, shall not be limited by any court order sealing those records, except a court order authorized by Section 851.6, 851.7, 851.8, or 851.85 of the Penal Code. The State Bar may disclose publicly the nature and content of those records, including sealed records other than those specified immediately above in this section, after notice of intention to disclose all or a part of the records has been given to the parties in the underlying action. A party to the underlying action who would be adversely affected by the disclosure may serve notice on the State Bar within 10 days of receipt of the notice of intention to disclose the records that it opposes the disclosure and will seek a hearing in the court of competent jurisdiction on an expedited basis.

SEC. 21. Section 6091.1 is added to the Business and Professions Code, to read:

6091.1. (a) The Legislature finds that overdrafts and misappropriations from attorney trust accounts are serious problems, and determines that it is in the public interest to ensure prompt detection and investigation of instances involving overdrafts and misappropriations from attorney trust accounts.

A financial institution, including any branch, which is a depository for attorney trust accounts under subdivision (a) or (b) of Section 6211, shall report to the State Bar in the event any properly payable instrument is presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored.

(b) All reports made by the financial institution shall be in the following format:

(1) In the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor, and shall include a copy of the dishonored instrument, if such a copy is normally provided to depositors.

(2) In the case of instruments that are presented against insufficient funds but which instruments are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment, and the date paid, as well as the amount of overdraft created thereby. These reports shall be made simultaneously with, and within the time provided by law for notice of dishonor, if any. If an instrument presented against insufficient funds is honored, then the report shall be made within five banking days of the date of presentation for payment against insufficient funds.

(c) Every attorney practicing or admitted to practice in this state shall, as a condition thereof, be conclusively deemed to have consented to the reporting and production requirements of this section.

(d) Nothing in this section shall preclude a financial institution from charging an attorney or law firm for the reasonable cost of producing the reports and records required by subdivisions (a) and (b).

SEC. 22. Section 6091.2 is added to the Business and Professions Code, to read:

6091.2. As used in Section 6091.1:

(a) "Financial institution" means a bank, savings and loan, or other financial institution regulated by a federal or state agency, which can accept those deposits, pay interest thereon, and insure the deposits by an agency of the federal government, and if the depository has a notice of withdrawal requirement, the required notice does not exceed 30 days.

(b) "Properly payable" means an instrument which, if presented in the normal course of business, is in a form requiring payment under the laws of this state.

(c) "Notice of dishonor" means the notice which a financial institution is required to give, under the laws of this state, upon presentation of an instrument which the institution dishonors.

SEC. 23. Section 6093 of the Business and Professions Code is amended to read:

6093. (a) Whenever probation is imposed by the State Bar Court or the Office of Trial Counsel with the agreement of the respondent, any conditions may be imposed which will reasonably serve the purposes of the probation.

(b) Violation of a condition of probation constitutes cause for revocation of any probation then pending, and may constitute cause for discipline.

(c) Proceedings to revoke probation shall be expedited. The standard of proof is the preponderance of the evidence.

SEC. 24. Section 6094.5 of the Business and Professions Code is amended to read:

6094.5. (a) It shall be the goal and policy of the disciplinary agency to dismiss a complaint, admonish the attorney, or forward a completed investigation to the Office of Trial Counsel within six months after receipt of a written complaint. As to complaints designated as complicated matters by the Chief Trial Counsel, it shall be the goal and policy of the disciplinary agency to dismiss, terminate by admonition, or forward those complaints to the Office of Trial Counsel within 12 months. A notice to show cause is a public record when filed. This goal and policy is not jurisdictional and shall not serve as a bar or defense to, any disciplinary investigation or proceeding. The disciplinary agency shall provide a written report annually by March 31 to the Supreme Court and the Assembly and Senate Judiciary Committees on the number of complaints as of December 31 of the preceding year, which were pending beyond six months after receipt without dismissal, admonition, or the filing of a notice to show cause, plus tables showing time periods beyond six months and the number in each category on a discussion of the

reason for the extended periods.

(b) The disciplinary agency, subject to its record retention policy, shall respond within a reasonable time to inquiries as to the status of pending disciplinary cases in which a notice to show cause has been filed, or as to public discipline that has been imposed upon an attorney in California, or to the extent known by the agency, elsewhere, and, to the extent such information is known to the agency, all criminal cases in which an indictment or information has been brought charging a felony against an attorney or an attorney has been convicted of a felony, or convicted of any misdemeanor committed in the course of the practice of law or in any manner such that a client of the attorney was the victim, or any felony or misdemeanor, a necessary element of which, as determined by the statutory or common law definition of the crime, involves improper conduct of an attorney, including interference with the administration of justice, running and capping, false swearing, misrepresentation, fraud, deceit, bribery, extortion, misappropriation, theft, dishonesty or other moral turpitude, or an attempt of a conspiracy or solicitation of another to commit such a crime. Such information acquired from the disciplinary agency under this section shall not be used by an attorney to solicit business. The disciplinary agency shall adopt regulations to carry out the purposes of this subdivision.

SEC. 25. Section 6106.5 of the Business and Professions Code is amended to read:

6106.5. It shall constitute cause for disbarment or suspension for an attorney to engage in any conduct prohibited under Section 556 of the Insurance Code.

SEC. 26. Section 6126 of the Business and Professions Code is amended to read:

6126. (a) Any person advertising or holding himself or herself out as practicing or entitled to practice law or otherwise practicing law who is not an active member of the State Bar, is guilty of a misdemeanor.

(b) Any person who has been involuntarily enrolled as an inactive member of the State Bar, or has been suspended from membership from the State Bar, or has been disbarred, or has resigned from the State Bar with charges pending, and thereafter advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or county jail. However, any person who has been involuntarily enrolled as an inactive member of the State Bar pursuant to paragraph (1) of subdivision (e) of Section 6007 and who knowingly thereafter advertises or holds himself or herself out as practicing or otherwise entitled to practice law, is guilty of a crime punishable by imprisonment in the state prison or county jail.

(c) The willful failure of a member of the State Bar, or one who has resigned or been disbarred, to comply with an order of the Supreme Court to comply with Rule 955, constitutes a crime

punishable by imprisonment in the state prison or county jail.

SEC. 27. Section 6132 is added to the Business and Professions Code, to read:

6132. Any law firm, partnership, corporation, or association which contains the name of an attorney who is disbarred, or who resigned with charges pending, in its business name shall remove the name of that attorney from its business name, and from all signs, advertisements, letterhead, and other materials containing that name, within 60 days of the disbarrment or resignation.

SEC. 28. Section 6133 is added to the Business and Professions Code, to read:

6133. Any attorney or any law firm, partnership, corporation, or association employing an attorney who has resigned, or who is under actual suspension from the practice of law, or is disbarred, shall not permit that attorney to practice law or so advertise or hold himself or herself out as practicing law and shall supervise him or her in any other assigned duties. A willful violation of this section constitutes a cause for discipline.

SEC. 29. Section 6140.35 is added to the Business and Professions Code, to read:

6140.35. (a) The board shall annually present written and oral progress reports on all State Bar programs to the Judiciary Committees of the Senate and Assembly, as directed by those committees.

(b) This section shall remain in effect until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1992, deletes or extends that date.

SEC. 30. Section 6140.5 of the Business and Professions Code is amended to read:

6140.5. (a) The board shall establish and administer a Client Security Fund to relieve or mitigate pecuniary losses caused by the dishonest conduct of the active members of the State Bar arising from or connected with the practice of law. Any payments from the fund shall be discretionary and shall be subject to such regulation and conditions as the board shall prescribe. The board may delegate the administration of the fund to the State Bar Court, or to any board or committee created by the board of governors.

(b) Upon making a payment to a person who has applied to the fund for payment to relieve or mitigate pecuniary losses caused by the dishonest conduct of an active member of the State Bar, the State Bar is subrogated, to the extent of that payment, to the rights of the applicant against any person or persons who, or entity that, caused the pecuniary loss. The State Bar may bring an action to enforce those rights within three years from the date of payment to the applicant.

(c) Any attorney whose actions have caused the payment of funds to a claimant from the client security fund shall reimburse the fund for all moneys paid out as a result of his or her conduct with interest, in addition to payment of the assessment for the procedural costs of

processing the claim, as a condition of continued practice. The reimbursed amount, plus applicable interest and costs, shall be added to and become a part of the membership fee of a publicly reproved or suspended member for the next calendar year. For a member who resigns with disciplinary charges pending or a member who is suspended or disbarred, the reimbursed amount, plus applicable interest and costs, shall be paid as a condition of reinstatement of membership.

SEC. 31. Section 6180.4 of the Business and Professions Code is amended to read:

6180.4. The application shall be set for hearing and an order to show cause shall be issued, directing the attorney, or his or her personal representative, or, if none, the person having custody and control of the files and records, to show cause why the court should not assume jurisdiction over the law practice as provided in this article. A copy of the application and order to show cause shall be served upon the person to whom it is directed by personal delivery or, as an alternate method of service, by certified or registered mail, return receipt requested, addressed to the attorney at the latest address shown on the official membership records of the State Bar or to the personal representative at the latest address shown in the probate proceeding. Service is complete at the time of mailing, but any prescribed period of notice and any right or duty to do any act or make any response within that prescribed period or on a date certain after notice is served by mail shall be extended five days if the place of address is within the State of California, 10 days if the place of address is outside the State of California but within the United States, and 20 days if the place of address is outside the United States. If the attorney has a guardian or conservator, copies shall also be served upon such fiduciary in similar manner. The court may prescribe additional or alternative methods of service of the application and order to show cause, and may prescribe methods of notifying and serving notices and process upon other persons and entities in cases not specifically provided for herein.

SEC. 32. Section 6180.5 of the Business and Professions Code is amended to read:

6180.5. If the court finds that one or more of the events stated in Section 6180 has occurred, and (a) that supervision of the courts is warranted because the affected attorney has left an unfinished client matter for which no other active member of the State Bar has with consent of the client agreed to assume responsibility or (b) that the interest of one or more of the clients of the attorney or one or more other interested persons or entities will be prejudiced if the proceeding herein provided is not maintained, it may make an order assuming jurisdiction over the attorney's practice pursuant to this article. If the person to whom the order to show cause is directed does not appear the court may make its order upon the verified application or such proof as it may require. Thereupon the court shall appoint one or more active members of the State Bar to act under

its direction and may order such appointed attorneys to do one or more of the following:

(a) Examine the files and records of the law practice, and obtain information as to any pending matters which may require attention.

(b) Notify persons and entities who appear to be clients of the attorney of the occurrence of the event or events stated in Section 6180 and inform them that it may be to their best interest to obtain other legal counsel.

(c) Apply for an extension of time pending employment of such other counsel by the client.

(d) With the consent of the client, file notices, motions and pleadings on behalf of the client where jurisdictional time limits are involved and other legal counsel has not yet been obtained.

(e) Give notice to the depositor and appropriate persons and entities who may be affected, other than clients, of the occurrence of such event or events.

(f) Arrange for the surrender or delivery of clients' papers or property.

(g) Arrange for the appointment of a receiver, where applicable, to take possession and control of any and all bank accounts relating to the affected attorney's practice of law, including the general or office account and the clients' trust account.

(h) Do such other acts as the court may direct to carry out the purposes of this article.

The court shall have jurisdiction over the files and records and law practice of the affected attorney for the limited purposes of this section, and may make all orders necessary or appropriate to exercise this jurisdiction.

SEC. 33. Section 6180.6 of the Business and Professions Code is amended to read:

6180.6. Nothing in this article shall authorize the court or an attorney appointed by it pursuant to this article to approve or disapprove of the employment of legal counsel, fix terms of legal employment, fix the compensation which may have been earned by the affected attorney, or supervise or in any way to undertake to conduct such law practice except to the limited extent provided by paragraphs (3) and (4) of Section 6180.5.

SEC. 34. Section 2018 of the Code of Civil Procedure is amended to read:

2018. (a) It is the policy of the state to: (1) preserve the rights of attorneys to prepare cases for trial with that degree of privacy necessary to encourage them to prepare their cases thoroughly and to investigate not only the favorable but the unfavorable aspects of those cases; and (2) to prevent attorneys from taking undue advantage of their adversary's industry and efforts.

(b) Subject to subdivision (c), the work product of an attorney is not discoverable unless the court determines that denial of discovery will unfairly prejudice the party seeking discovery in preparing that party's claim or defense or will result in an injustice.

(c) Any writing that reflects an attorney's impressions, conclusions, opinions, or legal research or theories shall not be discoverable under any circumstances.

(d) This section is intended to be a restatement of existing law relating to protection of work product. It is not intended to expand or reduce the extent to which work product is discoverable under existing law in any action.

(e) The State Bar may discover the work product of an attorney against whom disciplinary charges are pending when it is relevant to issues of breach of duty by the lawyer, subject to applicable client approval and to a protective order, where requested and for good cause, to ensure the confidentiality of work product except for its use by the State Bar in disciplinary investigations and its consideration under seal in State Bar Court proceedings. For purposes of this section, whenever a client has initiated a complaint against an attorney, the requisite client approval shall be deemed to have been granted.

SEC. 35. Sections 6 and 12 of this bill shall become operative July 1, 1989.

SEC. 36. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 37. Sections 1 to 36, inclusive, of this act shall become operative only if Assembly Bill 4391 of the 1987–88 Regular Session of the Legislature is enacted.

CHAPTER 1160

An act to add Sections 99156, 99157, and 99158 to the Public Utilities Code, relating to transit districts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 99156 is added to the Public Utilities Code, to read:

99156. Notwithstanding any other provision of law, a transit district may provide compensation to a member of the governing board of the district only for attendance at a meeting of the board or for each day the member is engaged in other district business within or without the district. A member who engages in district business other than attendance at board meetings shall first obtain authorization of the board for reimbursement of travel expenses or

other compensation before engaging in that business and shall submit a report thereof to the board for all expenditures.

SEC. 2. Section 99157 is added to the Public Utilities Code, to read:

99157. Notwithstanding any other provision of law, a transit district may not provide any life, accident, or health insurance plan to any member or former member of the governing board of the district who first served as a member of the governing board after January 1, 1989, that exceeds the benefits provided to full-time active or retired district employees. The terms, conditions, or contributions applicable to any plan provided for employees shall also apply to any plan provided for those members of the governing board.

SEC. 3. Section 99158 is added to the Public Utilities Code, to read:

99158. Notwithstanding any other provision of law, a transit district may not establish or contribute to a pension or retirement benefits plan or purchase an annuity for any member of its governing board who first served as a member of the governing board after January 1, 1989. This section does not apply to a deferred compensation plan described in Section 53213 of the Government Code.

CHAPTER 1161

An act to add Section 14027 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 14027 is added to the Welfare and Institutions Code, to read:

14027. (a) The department may designate participating county health service agencies as health care service providers of home nursing services, subject to appropriate statutory licensing and certification requirements.

(b) Any county designated as a health care provider of home nursing services pursuant to subdivision (a) shall act as a fiscal intermediary for the provision of home nursing services and pass through to the licensed individuals rendering those nursing services, in total, all Medi-Cal reimbursements received for those nursing services.

(c) The Medi-Cal reimbursement rate applicable to nursing services reimbursed through a designated county health service agency shall be the current Medi-Cal rate applicable to those services.

(d) For purposes of this section, "designated provider of home nursing services" means any participating county health services agency designated as a provider of home nursing services pursuant to subdivision (a).

CHAPTER 1162

An act to amend Sections 3320, 3326, 3327, 3330, 3350, 3353, 3354, 3360, 3361, 3362, 3364, 3365, 3400, 3401, 3403, 3404, 3421, 3422, 3423, 3424, 3430, 3451, 3452, and 3455 of, to add Section 3310 to, to repeal and add Section 3329 of, and to repeal Sections 3359 and 3425 of, the Business and Professions Code, relating to hearing aid dispensers.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 3310 is added to the Business and Professions Code, to read:

3310. This chapter shall be known and may be cited as the Hearing Aid Dispensers Licensing Law.

SEC. 1.5. Section 3320 of the Business and Professions Code is amended to read:

3320. There is within the jurisdiction of the board a Hearing Aid Dispensers Examining Committee . The committee shall consist of seven members. Four members shall be public members, one of whom shall be a licensed physician and surgeon specializing in treatment of the diseases of the ear and certified by the American Board of Otolaryngology, and another public member shall be an audiologist licensed under Chapter 5.3 (commencing with Section 2530). Each public member shall be a citizen of the United States, a resident of the State of California, and of good moral character. The remaining three members shall be, and shall have been for at least five years immediately preceding their appointment, engaged exclusively in this state in the practice of fitting or selling hearing aids to persons with impaired hearing. All hearing aid dispenser members shall be persons who hold permanent and valid licenses under this chapter.

The director or his or her deputy shall be entitled to attend all meetings of the committee, except that neither shall have the power to vote nor shall be counted for quorum purposes.

SEC. 2. Section 3326 of the Business and Professions Code is amended to read:

3326. The committee shall keep a record of all prosecutions for violations of this chapter and of all examinations held for applicants for licenses together with the names and addresses of all persons taking examinations and of their success or failure to pass them.

SEC. 3. Section 3327 of the Business and Professions Code is amended to read:

3327. The committee may recommend the preparation of and administration of a course of instruction concerned with the fitting and selection of hearing aids. The committee may require that prospective licensees shall first complete the required course of instruction or otherwise satisfy the committee that the licensee possesses the necessary background and qualifications to fit or sell hearing aids. If the committee promulgates regulations to implement this section to require a course of instruction concerned with fitting and selling hearing aids, it shall obtain the advice of persons knowledgeable in the preparation and administration of such a course of instruction.

The committee may publish and distribute information concerning the examination requirements for obtaining a license to engage in the practice of fitting and selling hearing aids within this state.

SEC. 4. Section 3329 of the Business and Professions Code is repealed.

SEC. 5. Section 3329 is added to the Business and Professions Code, to read:

3329. (a) The committee may prosecute any and all persons for any violation of this chapter.

(b) The committee shall hear and decide all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any of those matters to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, all hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. If a contested case is heard by the committee, the administrative law judge who presided at the hearing shall be present during the committee's consideration of the case and, if requested, shall assist and advise the committee in rendering a decision in the case.

SEC. 6. Section 3330 of the Business and Professions Code is amended to read:

3330. The committee may employ the personnel necessary to administer this chapter, other than personnel to perform inspections or investigations, and may incur other expenses as are necessary for the administration of this chapter. All inspections or investigations made pursuant to this chapter shall be made by personnel from the Division of Investigations of the department or of the board.

SEC. 7. Section 3350 of the Business and Professions Code is amended to read:

3350. It is unlawful for an individual to engage in the practice of fitting or selling of hearing aids, or to display a sign or in any other way to advertise or hold himself or herself out as being so engaged without having first obtained a license from the committee under the

provisions of this chapter. Nothing in this chapter shall prohibit a corporation, partnership, trust, association or other like organization maintaining an established business address from engaging in the business of fitting or selling, or offering for sale, hearing aids at retail without a license, provided that any and all such fitting or selling of hearing aids is conducted by the individuals who are licensed pursuant to the provisions of this chapter. A person whose license as a hearing aid dispenser has been suspended or revoked shall not be the proprietor of a business which engages in the fitting or selling of hearing aids nor shall that person be a partner, shareholder, member, or fiduciary in a partnership, corporation, association, or trust which maintains or operates that business, during the period of the suspension or revocation. This restriction shall not apply to stock ownership in a corporation which is listed on a stock exchange regulated by the Securities and Exchange Commission if the stock is acquired in a transaction conducted through that stock exchange.

SEC. 8. Section 3353 of the Business and Professions Code is amended to read:

3353. (a) The committee shall prepare, approve, grade, and conduct examinations of applicants for a hearing aid dispenser's license. The committee may provide that the preparation and grading of the examination be conducted by a competent person or organization other than the committee, provided, however, that the committee shall establish the guidelines for the examination and shall approve the actual examination.

(b) Each applicant shall take and pass the following examinations:

(1) A written examination compiled at the direction of the committee covering all of the following areas as they pertain to the fitting or selling of hearing aids:

(A) Basic physics of sound.

(B) The anatomy and physiology of the ear; and the pathology of the ear as it relates to hearing aid fitting.

(C) The function of hearing aids.

(D) Hearing aid evaluation.

(E) Knowledge and understanding of this chapter and the regulations adopted pursuant to it.

(2) A demonstration of proficiency compiled at the direction of the committee, including, but not limited to, the following:

(A) The procedures and use of equipment established by the committee for the fitting or selling of hearing aids.

(B) The techniques for taking earmold impressions.

(3) Evidence of knowledge regarding the medical and rehabilitation facilities for children and adults that are available in the area served.

SEC. 9. Section 3354 of the Business and Professions Code is amended to read:

3354. The committee shall issue a license to all applicants who have satisfied this chapter, who have not committed acts or crimes constituting grounds for denial of licensure under Section 480, and

who have paid the fees provided for in Section 3456. No license shall be issued to any person other than an individual.

SEC. 10. Section 3359 of the Business and Professions Code is repealed.

SEC. 11. Section 3360 of the Business and Professions Code is amended to read:

3360. Examinations shall be held by the committee at least twice a year. The time and place of any examination shall be fixed by the committee at least 45 days prior to the date it is to be held.

SEC. 12. Section 3361 of the Business and Professions Code is amended to read:

3361. An applicant shall obtain an average of 70 percent in every subject upon which he or she is examined. In case any applicant fails to pass an examination, he or she shall be examined at the next or any succeeding examination only in the subjects in which he or she failed to obtain an average of 70 percent.

SEC. 13. Section 3362 of the Business and Professions Code is amended to read:

3362. Before engaging in the practice of fitting or selling hearing aids, each licensee shall notify the committee in writing of the address or addresses where he or she is to engage, or intends to engage, in the fitting or selling of hearing aids and, also, of any changes in his or her place of business.

SEC. 14. Section 3364 of the Business and Professions Code is amended to read:

3364. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in such fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the committee as provided in Section 3362.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state he or she shall apply for and procure a duplicate license for each branch office maintained. Such application shall state the name of the person and the location of the place or places of business for which such duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the fitting or selling of hearing aids at the primary or branch location of another licensee's business or at a location or facility which he or she may use on a temporary basis, provided, that, such hearing aid dispenser notifies the committee in advance in writing of the dates and addresses of such businesses, locations or facilities at which he or she will engage in the fitting or selling of hearing aids.

SEC. 15. Section 3365 of the Business and Professions Code is amended to read:

3365. A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or

on behalf of the licensee, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensee, and the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser or temporary licensee who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

(g) Such receipt shall bear, or have attached to it in no smaller type than the largest used in the body copy portion, the following:

"The purchaser has been advised at the outset of his or her relationship with the hearing aid dispenser that any examination or representation made by a licensed hearing aid dispenser in connection with the practice of fitting or selling of this hearing aid, or hearing aids, is not an examination, diagnosis, or prescription by a person licensed to practice medicine in this state, or by licensed audiologists and therefore must not be regarded as medical opinion or professional advice."

SEC. 16. Section 3400 of the Business and Professions Code is amended to read:

3400. Proceedings to deny, suspend, or revoke a license under this chapter, shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the committee shall have all of the powers granted therein.

SEC. 17. Section 3401 of the Business and Professions Code is amended to read:

3401. The committee may deny, issue subject to terms and conditions, suspend, or revoke a license, or impose conditions of probation upon a licensee, for any of the following causes:

(a) Gross incompetency which includes, but is not limited to, the improper or unnecessary fitting of a hearing aid.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Conviction of any crime substantially related to the qualifications, functions and duties of a hearing aid dispenser.

(e) Obtaining a license by fraud or deceit.

(f) Use of the term "doctor" or "physician" or "clinic" or "audiologist," or any derivation thereof, unless authorized by law.

(g) Fraud or misrepresentation in the fitting or selling of a hearing aid.

(h) The employment, to perform any act covered by the provisions of this chapter, of any person whose license has been suspended, revoked, or who does not possess a valid license issued under this chapter.

(i) The use or causing the use, of any advertising or promotional literature in such manner as to have the capacity or tendency to mislead or deceive purchasers or prospective purchasers.

(j) Habitual intemperance in the use of alcohol or any controlled substance.

(k) The licensee's permitting another to use his or her license for any purpose.

(*l*) Violation of any provision of this chapter.

(m) Any cause which would be grounds for denial of an application for a license.

SEC. 18. Section 3403 of the Business and Professions Code is amended to read:

3403. A plea or verdict of guilty or a conviction following a plea of nolo contendere, made to a charge substantially related to the qualifications, functions and duties of a hearing aid dispenser is deemed to be a conviction within the meaning of this article. The committee may order the license suspended or revoked, impose probationary conditions on a licensee, or may decline to issue a license, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 19. Section 3404 of the Business and Professions Code is amended to read:

3404. Before setting aside the revocation or suspension of any license or modifying the probation of any licensee, the committee may require the petitioner to pass the regular examination given for applicants for licenses.

SEC. 20. Section 3421 of the Business and Professions Code is amended to read:

3421. It is unlawful to sell or barter, or offer to sell or barter, any license issued by the board or committee.

SEC. 21. Section 3422 of the Business and Professions Code is amended to read:

3422. It is unlawful to purchase or procure by barter any license issued by the board or committee with intent to use the same as evidence of the holder's qualification to practice the fitting or selling of hearing aids.

SEC. 22. Section 3423 of the Business and Professions Code is

amended to read:

3423. It is unlawful to alter with fraudulent intent in any material regard a license issued by the board or committee.

SEC. 23. Section 3424 of the Business and Professions Code is amended to read:

3424. It is unlawful to use or attempt to use any license issued by the board or committee which has been purchased, fraudulently issued, counterfeited, or materially altered as a valid license.

SEC. 24. Section 3425 of the Business and Professions Code is repealed.

SEC. 25. Section 3430 of the Business and Professions Code is amended to read:

3430. In addition to other proceedings provided for in this chapter, whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court for the county wherein the acts or practices take place or are about to take place, may issue an injunction or other appropriate order, restraining such conduct on application of the committee, the Attorney General, or the district attorney of the county. If such acts or practices constitute, or will constitute, an offense against Section 3306.5, such application to the superior court may be made by the State Board of Optometry. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

SEC. 26. Section 3451 of the Business and Professions Code is amended to read:

3451. Licenses issued under this chapter expire at midnight on January 15 of each year if not renewed. To renew an unexpired license, the licensee shall, before the time at which the license would otherwise expire, apply for renewal on a form prescribed by the committee and pay the renewal fee prescribed by this chapter.

SEC. 27. Section 3452 of the Business and Professions Code is amended to read:

3452. Except as otherwise provided in this chapter, an expired license may be renewed at any time within five years after its expiration on filing of an application for renewal on a form prescribed by the committee, and payment of the renewal fee in effect on the last renewal date. If the license is renewed more than 30 days after its expiration the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 3451 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 28. Section 3455 of the Business and Professions Code is

amended to read:

3455. There is established in the State Treasury the Hearing Aid Dispensers Fund. All fees collected pursuant to this chapter shall be paid by the committee into such fund. All money in the Hearing Aid Dispensers Fund is continuously appropriated to the committee to carry out the purposes of this chapter.

SEC. 29. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1163

An act to add Sections 21209 and 31760.3 to the Government Code, relating to public retirement.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 21209 is added to the Government Code, to read:

21209. The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. Nothing in this section is intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil Code which makes the community property law inapplicable to the marriage.

This section shall become operative on January 1, 1990.

SEC. 2. Section 31760.3 is added to the Government Code, to read:

31760.3. The sole purpose of this section is to notify the current spouse of the selection of benefits or change of beneficiary made by a member. Nothing in this section is intended to conflict with community property law. An application for a refund of the member's accumulated contributions, an election of optional settlement, or a change in beneficiary designation shall contain the signature of the current spouse of the member, unless the member declares, in writing under penalty of perjury, any of the following:

(a) The member is not married.

(b) The current spouse has no identifiable community property interest in the benefit.

(c) The member does not know, and has taken all reasonable steps to determine, the whereabouts of the current spouse.

(d) The current spouse has been advised of the application and has refused to sign the written acknowledgment.

(e) The current spouse is incapable of executing the acknowledgment because of incapacitating mental or physical condition.

(f) The member and the current spouse have executed a marriage settlement agreement pursuant to Chapter 6 (commencing with Section 5133) of Title 8 of Part 5 of Division 4 of the Civil Code which makes the community property law inapplicable to the marriage.

This section shall not be operative in any county until such time as the board of supervisors shall, by resolution adopted by majority vote, make this section applicable in the county.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on local government. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 4 (commencing with Section 17550) of Part 7 of Division 2 of Title 2 of the Government Code.

CHAPTER 1164

An act to amend Section 7925 of, to repeal and add Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6 of, and to repeal Sections 8234 and 8238.3 of, the Fish and Game Code, relating to commercial fishing, and making an appropriation therefor.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 7925 of the Fish and Game Code is amended to read:

7925. (a) If a vessel is licensed under this article and is used to take salmon or has salmon aboard in ocean waters north of Point Arguello, there shall be on board that vessel, a total number of commercial fishing salmon stamps sufficient to have at least one for the operator and one for each crewmember required by United States Coast Guard regulations, excepting an operator or a crewmember who is exempt from the requirement under subdivision (b) of Section 7860. The commercial fishing salmon stamps shall be affixed to either the commercial fishing licenses of the operator and the crewmembers or, pursuant to subdivision (b), to the commercial passenger fishing license. No person shall operate, or cause to be operated, any vessel licensed under this article in violation of this subdivision.

(b) Notwithstanding Section 1053, the department may issue to the owner or operator of a vessel licensed pursuant to this article, upon application and payment of the fees prescribed in subdivision (c) of Section 7860, one commercial fishing salmon stamp for the operator and not more than one additional commercial salmon stamp for each crewmember required by the United States Coast Guard regulations. The commercial fishing salmon stamps issued under this subdivision shall be affixed to the vessel's commercial passenger fishing boat license issued pursuant to this article.

This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 2. Article 4.5 (commencing with Section 8230) of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code is repealed.

SEC. 2. Article 4.5 (commencing with Section 8230) is added to Chapter 2 of Part 3 of Division 6 of the Fish and Game Code, to read:

Article 4.5. Commercial Salmon Vessel Permits

8230. (a) The Legislature finds and declares that commercial salmon fishing is in the public interest and that the preservation of commercial salmon fishing directly affects the health and welfare of the public. The Legislature further finds and declares that, due to past declines in salmon stocks, the increase in the quality and value of salmon on the market, the number and types of vessels being used, the commensurate salmon fishing potential of the commercial salmon fishing fleet, and the demand for entry into the commercial salmon fishery, it is necessary and proper to limit the persons who are eligible to take salmon for commercial purposes and to regulate

the amount of salmon that may be taken by restricting the number and salmon fishing potential of the vessels in the commercial salmon fishing fleet in order to preserve and rebuild the salmon resource, to protect commercial salmon fishing, and thereby to protect the health and welfare of the public.

(b) The Legislature further finds and declares the following:

(1) The salmon resource declined in 1983 and 1984 as a result of the most severe warm water El Nino current of this century, which caused major disruptions and hardship in the commercial salmon fishery. Habitat destruction in the rivers of California has also depleted the salmon stocks which are bred and reared in those rivers.

(2) The Pacific Fishery Management Council has imposed season closures on the taking of salmon since 1982, including a total prohibition on commercial taking of salmon in 1985 along portions of the northern California coast to protect the king salmon stock from the Klamath River. In 1987, a five-year agreement was signed which allocates the king salmon stock from the Klamath River between ocean commercial and recreational users and in-river Indian and recreational users. This agreement may result in further closures.

(3) Nearly 30 percent of the commercial salmon fishing vessels which were permitted to take salmon for commercial purposes in California did not record landings of salmon in the 1986 and 1987 commercial salmon seasons.

(4) There are more than enough commercial salmon fishing vessels for which commercial salmon fishing permits have been issued to harvest the less than 10 million pounds of salmon that are currently available annually. With the present fleet makeup between large vessels and small vessels and between full-time and part-time fishermen, it is estimated that the present resource capacity may accommodate a fleet of not more than 2,500 permitted vessels. Therefore, no new permits should be issued until the time that the fleet size falls below 2,500 permitted vessels. Adequate provision for entry of new persons or vessels to the commercial salmon fishery is afforded by transfers of vessels for which permits have been issued and renewed and by transfers of those existing permits to vessels of the same or less salmon fishing potential.

8231. The following definitions govern the construction of this article:

(a) "Agent" means the person designated in writing by the owner as the owner's representative.

(b) "Appeal" means a request for reconsideration of an action of the review board, the department, or the commission pursuant to this article.

(c) "Change of ownership" means the transfer of ownership of a permitted vessel to a new owner.

(d) "Commercial salmon vessel permit" means an annual permit issued by the department to an owner of a commercial fishing vessel for use of that vessel to take salmon for commercial purposes and shall not be considered personal property.

(e) "Fishing potential" means the capability and capacity for harvesting salmon of a particular commercial fishing vessel. "Fishing potential" includes, but is not limited to, a rating based upon factors such as size, seaworthiness, propulsion system, hold size, and hull design.

(f) "Owner" means the person or persons designated as the registered owner of a vessel on a certificate of documentation issued by the United States Coast Guard or on a copy of the vessel registration issued by the vessel registration agency of the state where the owner is a resident. For purposes of this subdivision, in California, the vessel registration agency is the Department of Motor Vehicles.

(g) "Permit" means a commercial salmon vessel permit as defined in subdivision (d).

(h) "Permitted vessel" means a commercial fishing vessel for which a permit is currently valid.

(i) "Replacement vessel" means a commercial fishing vessel for the use of which a permit is proposed to be transferred pursuant to this article.

(j) "Review board" means the commercial salmon fishing review board created pursuant to Section 8247.

(k) "Transfer" means the issuance of a permit for use of a replacement vessel.

8232. It is unlawful to take or possess salmon for commercial purposes on a vessel unless all of the following conditions are met:

(a) The vessel is registered with the department pursuant to Section 7890, and the owner of the vessel has a valid commercial salmon vessel permit for the use of that vessel.

(b) The permit for the use of the vessel is affixed to the vessel adjacent to the department registration plate unless otherwise authorized by the department.

(c) The permit affixed to the vessel is visible at all times.

8232.5. (a) Except as provided in this section, it is unlawful to take salmon for sport purposes on a permitted vessel.

(b) Subdivision (a) does not prohibit taking salmon for sport purposes under a sportfishing or a sport ocean fishing license, which is issued pursuant to Article 3 (commencing with Section 7145) of Chapter 1, on a vessel licensed as a commercial passenger fishing boat pursuant to Section 7920 and engaged in that business on any day when salmon are not being taken for commercial purposes on that vessel.

8233. A permit is valid from April 1 to the next succeeding March 31. Except as otherwise provided in this article, a permit shall be renewed prior to expiration. Each permit issued by the department shall display the expiration date on the face of the permit.

8233.1. The holder of a permit issued under this article who moves or acquires a new address different from the address shown on the application or on the certificate of boat registration shall notify the department of the old and new address.

8233.3. Except as otherwise provided in this article, the department shall issue a permit, upon application and payment of the renewal fees pursuant to Section 8235, which is valid for the subsequent permit year, to the owner of a permitted vessel which is registered with the department pursuant to Section 7890.

8233.4. Except as otherwise provided in this article, the department shall issue a permit, upon payment of the transfer fees pursuant to subdivision (a) of Section 8239 and surrender to the department of the permit for the use of the permitted vessel, to the owner of a replacement vessel which is registered with the department pursuant to Section 7890, if the transfer has been approved pursuant to Section 8241.

8233.5. Except as otherwise provided in this article, the department shall change the designation of the holder of a permit, and with it shall go all rights, privileges, and obligations of a permit holder, including rights of renewal, upon receipt of a notice of change of ownership to a new owner of a permitted vessel upon change of ownership in the permitted vessel. A permit changed pursuant to this section is valid for the permit year during which it is issued.

8233.8. Except as otherwise provided in this article, the department shall issue a permit to the owner of a commercial salmon fishing vessel which is registered with the department pursuant to Section 7890 for the new entry of that vessel into the commercial salmon fishery if that owner is authorized to be issued a permit for the use of that new entry vessel pursuant to subdivision (b) of Section 8245.

8233.9. Section 8101 does not apply to this article.

8234. (a) The department shall not issue a permit under this article unless one of the following first occurs:

(1) The applicant presents to the department a commercial fishing salmon stamp issued to the owner or an agent of the owner. No commercial fishing salmon stamp shall be presented or accepted by the department to authorize issuance of a permit under this section for more than one vessel.

(2) The applicant obtains a commercial fishing salmon stamp and pays the fees for the stamp if required by and as provided in subdivision (b) of Section 7852.3 and subdivision (a) of Section 7860.

(3) On or before April 1 of the current license year, the owner is 70 years of age.

(b) The first commercial fishing salmon stamp issued to an owner, or to that owner's agent, shall be affixed to the commercial fishing license of that owner or agent. Any additional commercial fishing salmon stamps issued to the owner or the owner's agent pursuant to paragraph (1) of subdivision (a) for purposes of obtaining permits for use of additional commercial salmon fishing vessels shall be affixed to each additional vessel's registration issued pursuant to Section 7890.

(c) This section shall remain in effect only until January 1, 1992,

and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

8235. (a) The owner of a permitted vessel, or that owner's agent, may apply for renewal of the permit annually on or before March 31, upon payment of the fees established under subdivision (b), without penalty. Upon receipt of the application and fees, the department shall issue the permit for use of the permitted vessel in the subsequent permit year only to the owner of the permitted vessel.

(b) The department shall fix the annual fee for the renewal of the permit in an amount it determines to be necessary to pay the reasonable costs of implementing and administering this article.

(c) If an owner to whom a permit has been issued, or that owner's agent, applies for renewal of the permit, and the application for the renewal is received in an office of the department, or is postmarked if mailed, after March 31 but on or before April 30, the department shall accept the application and, upon payment of an additional late fee of one hundred dollars ($100), the department shall issue the permit for use of the permitted vessel in the subsequent permit year.

(d) If the department does not receive a vessel permit renewal application for any vessel for which a vessel permit has been issued, the department shall notify the owner of the vessel. The notice shall be in writing, shall be addressed to the owner at the address listed on his or her most recent vessel permit or vessel permit renewal application, and shall be sent by certified mail not later than April 20. The notice shall include all of the following:

(1) Instruction on how to apply for vessel permit renewal.

(2) Information on the provisions of subdivision (c).

(3) Information on the provisions of subdivision (f).

(e) The department shall suspend any late fees otherwise due under subdivision (c) and shall issue a permit for use of the permitted vessel in the subsequent permit year if the department is unable to accept applications for renewal of permits by March 1.

(f) Except as provided in subdivision (c) of this section, the department shall not renew a permit for which the application for renewal is not received, or, if mailed, is received or postmarked after expiration of the permit.

(g) The applicant for a permit issued or renewed under this article shall certify under penalty of perjury that the person to whom the permit is to be issued is the owner of the vessel for the first issuance or renewal of a permit on and after January 1, 1989.

8236. (a) The department shall send a written notice of renewal and a permit renewal application to the owner of each currently permitted vessel at the most recent address of that owner in the records of the department. The notice shall be sent by first-class mail before March 1. The department shall mail a copy of the notice for renewal to all associations and groups known to the department to be representing commercial salmon fishermen. The department shall also provide blank permit renewal applications at appropriate offices of the department.

(b) The notice shall include all of the following:

(1) Instructions on how to apply for renewal of a permit.

(2) Information on the provisions of subdivisions (c) and (e) of Section 8235.

(c) Failure to receive the notice under this section does not exempt or excuse the owner from the requirement of annual renewal of the permit on or before the permit expiration date.

8237. (a) The department shall change the designation of the holder of a permit to the new owner of a permitted vessel upon change of ownership of the permitted vessel, whether the change of ownership is by contract, by operation of law, or otherwise.

(b) The permit shall not be transferred to any other vessel, except by the issuance of a permit for use of the replacement vessel pursuant to subdivision (c) and Sections 8239 to 8241, inclusive.

(c) The owner of the permitted vessel may seek to retire the permitted vessel from the commercial salmon fishery and apply for transfer of the permit, to be issued pursuant to Section 8241, for use of a replacement vessel.

8238. On or before January 1, 1991, the department, in consultation with the review board, shall establish and adopt, in the manner prescribed in Section 8238.3, a vessel classification system to determine the fishing potential of replacement vessels for applications for transferred permits to be issued pursuant to Section 8241, including consideration of how the vessel from which the permit is sought to be transferred was used, the vessel's highest and best use by a prudent operator, and the fishing potential of prospective vessels for applications for new, original permits.

8238.1. The vessel classification system shall be used by the department in consultation with the review board for issuance of new original vessel permits pursuant to Section 8243 and as a guideline for the review board in making its recommendations to the department on vessel permit transfers.

8238.3. (a) On or before March 1, 1990, the department and the review board shall develop a draft of the vessel classification system. In developing the draft, the department and the review board shall consider factors effecting the capability and capacity of taking salmon on a commercial salmon fishing vessel, including, but not limited to, the size, seaworthiness, propulsion, hold size, and hull design of the vessel, and any other factors the department or the review board deems appropriate.

(b) On or before March 1, 1990, the department shall mail a copy of the draft vessel classification system to each owner of a permitted vessel at the address on the records of the department. The department shall also mail a copy of the draft vessel classification system to all interested persons known to the department and all associations and groups known to the department to be representing commercial salmon vessel owners.

(c) For purposes of this section, "interested person" means any person who has notified the review board or the department on or

before March 1, 1990, of his or her interest in the commercial salmon fishery and has requested to be included in the mailing of the draft of the vessel classification system.

(d) The department shall include with the draft of the vessel classification system, which is mailed pursuant to subdivision (b), a notice that, for 60 days after the date of mailing, it will accept public comments on the draft vessel classification system which are sent to the department at its office designated on the notice.

(e) After the public comment period, the department, with the assistance of the review board, shall establish and adopt the vessel classification system after taking into consideration the public comments received.

(f) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted on or before January 1, 1992, deletes or extends that date.

8239. A transfer may be approved and a permit issued for use of a replacement vessel pursuant to Section 8241 under all of the following conditions:

(a) The vessel owner submits a written request for the transfer to the department on a form provided by the department and pays a nonrefundable transfer fee of one hundred dollars ($100).

(b) The permit for the permitted vessel is current, and the owner of the permitted vessel makes assurances in the application that any renewal of the permit which becomes due during the application processing period will be made.

(c) The owner of the permitted vessel submits evidence with the application sufficient to establish that he or she is the owner of the permitted vessel at the time of the application for the transfer.

(d) The vessel owner submits evidence with the application sufficient in the judgment of the review board and the department to establish that the replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel.

(e) Under penalty of perjury, the vessel owner signs the application for transfer and certifies that the included information is true to the best of his or her information and belief.

(f) The same transfer has not been requested within the previous 12 months or the same transfer has not previously been denied and that denial is final, unless the application or supporting information are different than that contained in the previous application, as determined by the department and after consultation with the review board.

(g) The permittee has 50 percent or greater ownership interest in the permitted vessel and in the replacement vessel. For purposes of this subdivision and subdivision (h), "permittee" means an individual designated as the owner of the permitted vessel.

(h) Except as provided in Section 8239.1 or paragraph (5) of subdivision (a) of Section 8246.7, the permittee has maintained a 50 percent or greater ownership interest in the permitted vessel for not less than 18 months prior to the date of the transfer and the permit

for use of the permitted vessel has been maintained for that vessel and has not been previously transferred less than 18 months prior to the date of the transfer.

(i) The permittee has written authority from the legal owner, if other than the permittee or mortgager, if any, to transfer the vessel permit from the permitted vessel.

8239.1. (a) Unless otherwise prohibited, the department shall accept a transfer application within one year after the date that a permitted vessel was lost, stolen, or destroyed, notwithstanding any inability to physically examine the permitted vessel to determine its salmon fishing potential. Only the permittee at the time of the loss, theft, or destruction of the vessel may apply for the transfer of the vessel permit. Proof that a vessel is lost, stolen, or destroyed shall be in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss.

(b) (1) The owner, or the owner's agent, may request an extension of the time to complete a transfer under subdivision (a) if the application for extension is submitted before the end of the time to submit an application under subdivision (a), or before the end of any previous extensions granted under this subdivision, whichever date is later.

(2) The department, after consultation with the review board and for good cause shown, including, but not limited to, inability to find a replacement vessel or pending litigation, may grant an extension of the time to complete a transfer under subdivision (a) for a period of six months. The department may grant further extensions under this subdivision, not to exceed a total time period of five years after the date the permitted vessel was lost, stolen, or destroyed if the permit fees are paid annually as required in paragraph (2) of subdivision (b) of Section 8239 and subdivision (c) of Section 8240.

8239.2. The department, in cooperation with the review board, shall establish and implement administrative procedures for the administration of this article.

8239.6. A permit issued for the use of a replacement vessel under Section 8241 is valid for the balance of the permit year for which the permit for the use of the permitted vessel was originally issued or last renewed, and the permit issued under this section authorizes the use of the replacement vessel only for that period.

8239.9. Notwithstanding Section 8239, 8239.1, or 8239.2, any person may request the review board to determine the fishing potential of any permitted vessel or any replacement vessel before a transfer application for a permit for use of a replacement vessel is submitted to the department. The person making a request under this subdivision is not required to be the owner of either vessel. A determination under this subdivision is not binding on the review board or the department and is only advisory.

8240. (a) The department shall not issue a permit for use of a replacement vessel if the permitted vessel was reported as lost,

stolen, or destroyed by fraudulent means or for fraudulent purposes.

(b) The department shall not issue a permit for use of a replacement vessel if the application contains or is accompanied with fraudulent or willfully misleading information.

(c) The department shall not issue a permit for use of a replacement vessel or to a new owner of a permitted vessel if the permit for the permitted vessel expires and is not renewed. Except as provided in Section 8235, an owner of a permitted vessel shall renew the permit before the expiration date even if that owner has a transfer application pending.

(d) The department may refuse to issue a permit for use of a replacement vessel or to issue a permit to a new owner of a permitted vessel on any grounds for which a permit may be suspended or revoked.

8241. The department shall issue the permit for use of a replacement vessel if it determines, after consultation with the review board, the following:

(a) The replacement vessel has the same fishing potential as, or less fishing potential than, the permitted vessel. The review board and the department shall consider the type of fishery the vessel was previously used in and the vessel's highest and best use by a prudent operator, and the review board shall make written findings on those facts.

(b) The replacement vessel's fishing potential will not substantially increase fishing capacity over that which resulted from the operation of the permitted vessel.

(c) The applicant owns the replacement vessel.

(d) The conditions in this article are satisfied.

8242. A person seeking to gain entry into the commercial salmon fishery may obtain a permit under either of the following conditions:

(a) By legally obtaining the ownership of a permitted vessel and notifying the department of the change of ownership of the permitted vessel.

(b) By applying to obtain a new, original permit issued by the department pursuant to Sections 8244 and 8245.

8243. (a) If the department determines that the number of permitted vessels is less than 2,500, the department shall determine, after consultation with the review board, the number and vessel classification for which any new, original permits may be issued to bring the total number of permitted vessels to no more than 2,500.

(b) New, original permits to be issued shall be authorized by vessel classifications established under Section 8238.

8244. (a) An applicant may apply for a new, original permit as either an individual, a joint venture, or a corporation. The applicant may submit only one application annually. The application shall be made on a form provided by the department.

(b) An applicant for a new, original permit under this section shall submit a completed application as directed by the department. The completed application and the application fees prescribed in

subdivision (c), shall be delivered or postmarked on or before February 1, in order to be considered for permits for the subsequent permit year.

(c) The applicant shall submit with the application a nonrefundable application fee determined by the department in an amount sufficient to pay the costs of administering the issuance of new, original permits by the department, which shall be not less than twenty-five dollars ($25).

(d) The department, after consultation with the review board, shall determine the fishing potential of the vessel for use of which the new, original permit is to be issued and otherwise determine if the applicant is eligible to be issued a permit under this article.

8245. (a) The department shall conduct a drawing from the applicants determined to be eligible for new, original permits pursuant to Section 8244 on the first Friday in March of each year that new, original permits are authorized to be issued pursuant to Section 8243.

(b) (1) The department shall issue a permit to each of those applicants who are drawn upon payment of the fees prescribed in paragraph (2) for the permit and, except as provided in subdivision (d), submittal of sufficient information to establish that the applicant is the owner of a vessel within the vessel classification designated in the application.

(2) The amount of the fees for a permit issued under this section are the same as the amount of the fees for renewal of a permit for the subsequent license year beginning on April 1 which are established pursuant to subdivision (b) of Section 8235. A successful applicant shall pay the fees for the permit on or before March 31. The department shall deposit the fees to the fund pursuant to Section 13001.

(c) Except as provided in subdivision (d), a successful applicant shall submit proof of ownership of the vessel to be used under the permit within 90 days of the drawing.

(d) (1) A successful applicant may request one extension of no more than 90 days to obtain a vessel as designated in the application. The department, after consultation with the review board, may grant that extension.

(2) If any successful applicant does not establish that he or she is the owner of a vessel as designated in the application and affix the new permit on that vessel or on another vessel with the same or less fishing potential, as determined by the department after consultation with the board, within 90 days or by the end of a 90 day extension granted by the department, the new permit is null and void.

(3) The department or the review board is not liable for any risk of failure by the applicant to obtain a vessel which is designated in an application or to complete the process for determination of the fishing potential of another vessel, or for failure by the applicant to obtain that other vessel, in the time prescribed in this section.

8245.5. The review board shall review the effectiveness of new entry provisions every three years beginning three years following the first permit drawing and make recommendations to the department for any changes it finds to be needed in the new entry system.

8246. (a) The commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commercial salmon fishing privilege for any of the following reasons:

(1) The person was not lawfully entitled to be issued a commercial fishing salmon stamp.

(2) A conviction of a violation of this code, or regulations adopted pursuant thereto, relating to commercial salmon fishing.

(3) A conviction of a violation of federal law, including the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.) and regulations adopted pursuant thereto, relating to commercial salmon fishing.

(4) A violation of any requirement, term, or condition of commercial salmon fishing.

(b) At any time after notice of an order suspending or revoking of a person's commercial salmon fishing privilege under subdivision (a) is issued by the commission, and before the order of suspension or revocation is final, the commission may, with the agreement of the person subject to the action, compromise or dismiss the action to suspend or revoke the commercial salmon fishing privilege in the best interests of the state, or the commission may compromise or dismiss the action with the agreement of the person subject to the action on terms and conditions, which may include, but are not limited to, the payment of civil damages, the reduction of a revocation to a suspension for a specified period of time, or any other terms and conditions.

(c) The commission, after notice and opportunity for hearing and consultation with the review board, may suspend or revoke the commmercial fishing privilege, authorized under a license issued for the purposes of Section 7850 or 7852.3, for any violation of a term or condition of an agreement to compromise or dismiss a separate suspension or revocation action which was made pursuant to subdivision (b).

(d) If the commission orders a suspension or revocation of a person's commercial salmon fishing privilege, any permit issued pursuant to this article shall be renewed when the next renewal is due or the permit shall expire as provided in Section 8233.

(e) Subdivision (c) does not apply if an action is brought to recover civil damages under Section 2014 from the person subject to action under this section.

8246.2. (a) The commission, in consultation with the department and the review board, shall adopt regulations for the determination of civil damages provided for in subdivision (b) of Section 8246 which give due consideration to the appropriateness of

the civil damages with respect to all of the following factors:

(1) The gravity of the violation.

(2) The good faith of the convicted licensee.

(3) The history of previous violations.

(4) The damage to the fishery.

(5) The cost of restoration of the fishery.

(b) Civil damages imposed under subdivision (b) of Section 8246 shall be due and payable on or before a date which is 30 days after the compromise is entered into.

8246.4. The commission, after notice and opportunity for hearing and consultation with the review board, shall revoke a commercial salmon vessel permit issued pursuant to this article if the vessel permit was obtained by fraudulent means.

8246.6. A person whose commercial salmon fishing vessel permit is revoked by the commission, who has been refused renewal of a permit by the department, or who has been denied a permit transfer may appeal the revocation, refusal, or denial to the commission by submitting the appeal in writing to the commission within 60 days of the decision.

8246.7. (a) The commission shall reverse an order of revocation, order the permit renewed, or order the approval of a permit transfer only if it finds one of the following grounds:

(1) The permittee failed to submit an application and pay the fees for renewal on or before April 30 pursuant to Section 8235 and the failure to renew a permit until after the expiration date was due to death, physical illness, mental incapacity, or being called to active military duty, and the person was not reasonably able to have an agent renew the permit.

(2) A lienholder of a permitted vessel, if the vessel is the property of the lienholder as a result of foreclosure, surrender, or litigation, can show loss due to the nonrenewal of a permit by the permittee, and the nonrenewal occurred without the knowledge of the lienholder.

(3) If, in the case of permit revocation because of fraud, evidence is provided to the commission disputing the charges of fraud. If the commission finds there was no fraud after consideration of all of the evidence, the commission may order the revocation annulled, and, if the permit expiration date has passed during the pendency of the hearing on the appeal, the commission may order the department to renew the permit upon payment of the fees.

(4) The denial of the permit transfer was arbitrary or capricious.

(5) The denial of the permit transfer was pursuant to subdivision (g) or (h) of Section 8239 and the applicant can show that the 18-month requirement cannot be met due to death, physical illness, mental incapacity, or being called to active military duty.

(b) Each appeal shall be heard and considered separately on its own merits.

8246.8. The commission and the department may make and enforce regulations that may be necessary or convenient for carrying

out any power, authority, or jurisdiction delegated to it under this article.

8247. There is in the department a commercial salmon fishing review board, which consists of five voting members appointed by the director. The director or a designee of the director shall attend meetings of the review board as a nonvoting member. The director may remove a member of the review board for cause.

8247.1. (a) Three of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by associations or groups representing commercial salmon fishing vessel owners.

(b) Two of the voting members of the review board shall be owners of permitted vessels appointed by the director from lists submitted by individual commercial salmon fishing vessel owners.

(c) Any voting member of the review board may appoint an alternate member to represent him or her at any meeting of the review board. The director may, within 60 days of the appointment, refuse an alternate member. The alternate shall serve at the pleasure of the member who appointed him or her and shall have all the powers and duties of a member of the commercial salmon fishing review board, except that the alternate shall only participate and vote in meetings in the absence of the member who appointed him or her.

8247.2. The terms of the members of the review board shall be for staggered four year terms. Necessary and proper expenses shall be paid to review board members. Each member, or any alternate member participating on behalf of a regular member in that member's absence, shall receive one hundred dollars ($100) per day for each day of attendance and participation in meetings of the review board.

8247.3. Each member appointed to the review board under this article as it read prior to its reenactment in the 1988 portion of the 1987–88 Regular Session shall continue to serve for the term for which he or she was appointed and may be reappointed.

8247.4. The review board shall function as an advisory body to the department regarding implementation of the provisions of this article. The review board shall act by a majority vote of the members present and voting. The review board shall not act unless there is a quorum of the voting members, including alternate members in the absence of their appointing members, and the director or his or her designee present.

8247.5. (a) The Legislature declares that individuals appointed as members of the review board shall be chosen from the commercial salmon fishing industry in order to represent and further the interest of the industry and commercial salmon fishing vessel owners, and this representation serves the general public interest.

(b) Each member of the review board is exempt from Section 87100 of the Government Code, unless the result of his or her actions taken as board members has a material financial effect on him or her

distinguishable from its effect on other members of the commercial salmon fishing industry generally.

8247.6. Members and alternate members of the review board shall act in the best interest of the state, the department, and the commercial salmon fishing industry. As members of the review board, no member or alternate member shall take any action, because of his or her position, that results in a direct material effect on any of them, distinguishable from its effect on other members of the commercial salmon fishing industry.

8247.7. The director may adopt standards and criteria by regulation that shall be applied by the review board in carrying out its activities under this article.

8247.8. The review board shall do all of the following:

(a) Consider and make recommendations to the department on requests for permit transfers.

(b) Recommend to the department, the number and classification of new vessel permits to be issued annually, if any, pursuant to Section 8243.

(c) Consult with and advise the commission as required by Sections 8246, 8246.2, and 8246.4.

(d) Consult with the department and advise on the establishment of the vessel classification system pursuant to Section 8238.

8248. If any provision of this article or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1165

An act to amend Sections 66780.1, 66780.5, 66780.6, and 66784.3 of the Government Code, relating to solid waste.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 66780.1 of the Government Code is amended to read:

66780.1. (a) Each county, in cooperation with affected local jurisdictions, shall prepare, subject to the approval of the plan by a

majority of the cities within the county which contain a majority of the population of the incorporated area of the county, except in those counties which have only two cities, in which case the plan is subject to the approval of the city which contains a majority of the population of the incorporated area of the county, a comprehensive, coordinated solid waste management plan, consistent with state policy and any appropriate regional or subregional solid waste management plan, for all waste disposal within the county or any other designated jurisdiction, based upon population and waste generated, and for all waste originating within the county or jurisdiction which is to be disposed of outside of the county. Each solid waste management plan shall be submitted for review and comments to the regional planning agency for the region prior to submission to the board. Any county, with the agreement of a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, except in those counties which have only two cities, in which case the transfer is subject to the agreement of the city which contains a majority of the population of the incorporated area of the county, may transfer the responsibility for the preparation of the solid waste management plan to the regional planning agency for the region. Each plan shall include an implementation schedule, as defined in Section 66714.9, no later than July 1, 1984. Each plan shall also include an analysis of the economic feasibility of the plan, including the cost of waste disposal in the designated jurisdiction. Where appropriate, the plan may include elements providing for subregional solid waste management covering more than one county or parts thereof and providing for related costs of additional fees or charges. The plan shall not supersede plans of any local jurisdiction unless there is agreement by all parties concerned.

(b) On or before January 1, 1989, the board shall review, after consultation with local officials, the adoption, application and cost of the implementation schedules required by subdivision (a) and report its findings to the Legislature.

SEC. 2. Section 66780.5 of the Government Code is amended to read:

66780.5. In addition to the other requirements of this title, the county solid waste management plan prepared pursuant to Section 66780 shall:

(a) Include in the first revision as required in Section 66780.7 an amendment delineating an enforcement program in accordance with Chapter 3 (commencing with Section 66795), which has been reviewed by the board and the State Department of Health Services.

(b) Identify a program for the safe management of hazardous wastes, as defined in Section 25117 of the Health and Safety Code, which are generated by households and which should be separated from the solid waste stream, to the extent that the county determines a need for this program.

(c) Be reviewed, and revised, if appropriate, at least every three

years and revised where necessary to be consistent with state policy. A report of the results of the plan review shall be submitted to the board and to the department beginning on the third anniversary of the date of board approval of the plan submitted pursuant to Section 66780 with subsequent reviews and reports at least every three years thereafter.

(d) Any amendment to the plan shall be approved by a majority of the cities within the county which contain a majority of the population of the incorporated area of the county, except in those counties which have only two cities, in which case the amendment shall be approved by the city which contains a majority of the population of the incorporated area of the county. Each proposed amendment shall be submitted to each city within the county. Each city shall act upon the proposed amendment within 90 days after the city has received the amendment. If a city fails to act upon the proposed amendment within 90 days after receiving the amendment, the city shall be deemed to have approved the amendment as submitted. Each amendment shall be submitted to the board for approval as to its compliance with state policy.

(e) At the next revision of the plan occurring on or after January 1, 1987, the plan shall be revised to indicate the amount of asbestos waste generated in the county from asbestos removal projects and the sites or potential sites which have been designated to accept that waste. If it is concluded that the quantities of asbestos waste are not significant or that there are no sites located within the area covered by the county solid waste management plan where the asbestos waste could feasibly be disposed of, then the plan need not designate sites or potential sites for accepting such waste. If the plan does not designate sites or potential sites for accepting asbestos waste, then it shall identify measures which the county intends to take to secure the availability of sites for that purpose.

(f) In addition to the requirements of Section 66780.2, at the next revision of a solid waste management plan occurring on or after January 1, 1988, the plan shall be revised to include a plan by the county which establishes a goal of recycling 20 percent of the solid waste generated in the county, and actions the county will take to achieve this goal.

SEC. 3. Section 66780.6 of the Government Code is amended to read:

66780.6. (a) Notwithstanding Section 66780.1 and except as provided in subdivision (b), any county, with the consent of the county and the consent of the majority of the cities within the county which contain a majority of the population of the incorporated area in the county, except in those counties which have only two cities, in which case the joinder shall be subject to the consent of the city which contains a majority of the population of the incorporated area of the county, may join with one or more other counties to form a regional planning authority in any manner provided by law. If a bicounty or multicounty solid waste planning authority is created,

that authority shall prepare, amend, and revise a regional solid waste management plan, subject to the consent of the counties and a majority of the cities within each county which contain a majority of the population of the incorporated area in each county, except in those counties which have only two cities, in which case the consent shall be required of the city which contains a majority of the population of the incorporated area of the county.

(b) A regional solid waste management plan shall be prepared and updated by the Association of Bay Area Governments for the San Francisco Bay Area, as defined by the Office of Planning and Research pursuant to Section 65040.4. The regional plan shall be developed in cooperation with all affected local jurisdictions, and shall be based primarily on county solid waste management plans submitted to and approved by the board pursuant to this chapter. The regional plan shall address only those regional issues identified by local governments in the county solid waste management plans. Policies and programs for regional solid waste management shall be consistent with the state policy to protect the public health, enhance the environment and conserve its natural resources, as adopted by the board pursuant to Section 66770 of this chapter. Regional programs and policies shall not include aspects of solid waste handling that are primarily the responsibility of local governments, as defined by Sections 66732 and 66771. In order that the provisions of Sections 66701 and 66770 of this chapter are carried out to the maximum feasible extent, the regional plan shall be consistent with the San Francisco Bay Area air quality maintenance plan prepared and revised pursuant to the Federal Clean Air Act of 1970, as amended, and shall be consistent with the areawide waste treatment management plan prepared and revised pursuant to Section 208 of the Federal Water Pollution Control Act, as amended. The regional plan, and subsequent amendments thereto, shall be submitted to the general assembly of the association. Once approved in such assembly by a majority of the counties representing a majority of the population of the San Francisco Bay Area, and in such assembly by a majority of the cities representing a majority of the population of incorporated areas in the San Francisco Bay Area, the regional plan shall be submitted to the board for approval. Submission of the initial plan shall be made in April 1978, together with the areawide waste treatment management plan to be submitted to the State Water Resources Control Board and the air quality maintenance plan to be submitted to the State Air Resources Board. Hazardous waste policies and programs of the regional plan shall be submitted to the State Department of Health Services for approval. The regional plan shall, upon approval by the board and the State Department of Health Services, become part of the state plan to meet the requirements of the Federal Resource Conservation and Recovery Act of 1976. In carrying out the obligations of this section, the association shall comply with applicable guidelines and regulations of the board, the State Air Resources Board, the State Water Resources

Control Board, and the State Department of Health Services. Nothing in this section shall preclude a local government from entering into a contract with the board for a solid waste management or resources recovery project consistent with state law.

SEC. 4. Section 66784.3 of the Government Code is amended to read:

66784.3. (a) Each county may, upon a majority vote of the board of supervisors, adopt a schedule of fees to be collected from each operator within its jurisdiction, including an operator who operates solely within an incorporated city. The fee shall be established in an amount sufficient to pay only those costs incurred by a county for the preparation, maintenance, and administration of the solid waste management plan required by this chapter, which are reasonable and necessary. A county may also authorize any rate adjustments necessary to carry out the provisions of this subdivision, upon a majority vote of the board of supervisors, and upon the approval by a majority of those cities within the county which contain a majority of the population of the incorporated area of the county, except in those counties which have only two cities, in which case the rate adjustments shall be approved by the city which contains a majority of the population of the incorporated area of the county. These fees shall not be used to pay any costs incurred for mediation or for the implementation of any recycling or resource recovery program.

(b) A regional planning agency responsible for the preparation of a plan pursuant to Section 66780 may also adopt a schedule of fees to be collected from each operator as provided in subdivision (a). However, in no event, shall an operator be required to pay a fee to both a county and a regional planning agency.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1166

An act to add and repeal Section 1519.5 of the Health and Safety Code, relating to foster care.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) There are currently 35,000 children in California foster homes.

(b) The responsibility for the care of foster children falls to the

State Department of Social Services, county welfare departments, and foster parents who open their homes to these abused and neglected children.

(c) It is vital that foster parents be provided with the training necessary for them to deliver high quality and effective support and guidance to these children.

(d) A parent training program will provide foster parents with training to meet this need.

SEC. 2. Section 1519.5 is added to the Health and Safety Code, to read:

1519.5. (a) With the consent of Riverside County, there shall be established in that county a parenting training pilot program for foster parents pursuant to existing regulations of the State Department of Social Services.

(b) Any person seeking licensure as a foster parent in Riverside County shall, as a condition of licensure, except when the license is restricted to named children, be required to attend and complete the program. The program shall consist of both of the following:

(1) Preservice training, provided prior to licensure and focused primarily on parenting skills.

(2) In-service training, which shall be provided during the 12 months following initial placement and shall be focused primarily on parenting skills necessary to meet the special needs of foster children.

(d) Any person already licensed to provide foster care upon the commencement of the program may, at their option and contingent on space availability, participate in the program.

(e) The training program provided for in this section shall commence not later than September 1, 1989, and shall remain in operation until July 1, 1991. The program shall be operated by the Riverside County Department of Public Social Services.

This section shall become inoperative on July 1, 1991, and, as of January 1, 1992, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1992, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. An evaluation of the program established pursuant to Section 1519.5 of the Health and Safety Code shall be completed by the State Department of Social Services, in consultation with Riverside County, and provided to the Legislature no later than October 1, 1991. An interim evaluation shall be provided October 1, 1990. The program established pursuant to Section 1519.5 of the Health and Safety Code shall be deemed successful to the extent that the program has achieved the following objectives:

(a) The number of potential foster parents to whom preservice training is provided is at least 300 persons per year.

(b) The number of foster parents to whom in-service training is provided is at least 200 persons per year.

(c) An improvement of at least 20 percent in the parenting skills of the foster parents receiving training, as measured by a pretraining

test and a posttraining test.

(d) A decrease of 15 percent in the rate of foster parent turnover when compared to the 12-month period prior to the start of the program.

(e) A decrease of 25 percent in the rate of placement failure when compared to the 12-month period prior to the start of the program.

SEC. 4. This act shall not take effect unless the Board of Supervisors of the County of Riverside, by resolution, consents to the provisions of this act.

CHAPTER 1167

An act relating to education, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. (a) The Superintendent of Public Instruction shall conduct a special study of the fiscal and programmatic impact of limiting the involvement of certificated employees in providing specialized physical health care services as described in Section 49423.5 of the Education Code. The study shall include, but need not be limited to, the following topics:

(1) The number of special education and nonspecial education pupils receiving specialized physical health care services.

(2) The types of physical health care services provided in the public schools.

(3) The degree of training or licensing required for providers of physical health care services.

(4) The factors that affect the selection of school personnel to provide physical health care services.

(5) The impact of limiting the involvement of teachers in providing physical health care services to pupils receiving and not receiving these services.

(6) The issues surrounding personal liability for teachers providing specialized physical health care services.

(7) The costs of limiting the involvement of teachers in providing physical health care services.

(b) In conducting the study, the superintendent shall consult with appropriate groups and individuals involved in the education of pupils receiving specialized physical health care services, including, but not limited to, organizations representing teachers, classified employees, administrators, governing board members, licensed health care professionals, and parent and student advocacy organizations.

(c) The results of the study shall be presented in report form to the Legislature and the Governor on or before December 31, 1989.

SEC. 2. Notwithstanding Section 42242 of the Education Code, the sum of two million three hundred two thousand seven hundred eighty-seven dollars ($2,302,787) in Public Law 94-142 Part B carryover funds from Items 6100-001-890 and 6100-161-890 of Section 2.00 of the Budget Act of 1987 (Ch. 135, Stats. 1987) are reappropriated for purposes of schedule (b), Provision 1, of Item 6110-161-890 of Section 2.00 of the Budget Act of 1988 (Ch. 313, Stats. 1988).

CHAPTER 1168

An act to amend Section 704.730 of the Code of Civil Procedure, relating to real property.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 704.730 of the Code of Civil Procedure is amended to read:

704.730. (a) The amount of the homestead exemption is one of the following:

(1) Thirty thousand dollars ($30,000) unless the judgment debtor or spouse of the judgment debtor who resides in the homestead is a person described in paragraph (2) or (3).

(2) Forty-five thousand dollars ($45,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead a member of a family unit, and there is at least one member of the family unit who owns no interest in the homestead or whose only interest in the homestead is a community property interest with the judgment debtor.

(3) Seventy-five thousand dollars ($75,000) if the judgment debtor or spouse of the judgment debtor who resides in the homestead is at the time of the attempted sale of the homestead any one of the following:

(A) A person 65 years of age or older.

(B) A person physically or mentally disabled and as a result of that disability is unable to engage in substantial gainful employment. There is a rebuttable presumption affecting the burden of proof that a person receiving disability insurance benefit payments under Title II or supplemental security income payments under Title XVI of the federal Social Security Act satisfies the requirements of this paragraph as to his or her inability to engage in substantial gainful employment.

(C) A person 55 years of age or older with a gross annual income of not more than fifteen thousand dollars ($15,000) or, if the judgment debtor is married, a gross annual income, including the gross annual income of the judgment debtor's spouse, of not more than twenty thousand dollars ($20,000) and the sale is an involuntary sale.

(b) Notwithstanding any other provision of this section, the combined homestead exemptions of spouses on the same judgment shall not exceed the amount specified in paragraph (2) or (3), whichever is applicable, of subdivision (a), regardless of whether the spouses are jointly obligated on the judgment and regardless of whether the homestead consists of community or separate property or both. Notwithstanding any other provision of this article, if both spouses are entitled to a homestead exemption, the exemption of proceeds of the homestead shall be apportioned between the spouses on the basis of their proportionate interests in the homestead.

CHAPTER 1169

An act to amend Sections 36896 and 37975 of, to amend and renumber the heading of Article 22 (commencing with Section 38001) of Chapter 4 of Part 3 of Division 15 of, to add Section 36606 to, to add and repeal Article 22 (commencing with Section 37981) of Chapter 4 of, and to add Article 15 (commencing with Section 39841) to Chapter 9 of, Part 3 of Division 15 of, the Food and Agricultural Code, relating to dairy products, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 36606 is added to the Food and Agricultural Code, to read:

36606. (a) Safe and suitable bacteria standards may be adopted by the director for use in specific dairy products except for varieties of hard and soft cheese. Any bacteria strain approved by the director under this section shall appear in the ingredient list of the product. The name of any bacteria strain approved by the director for use in a dairy product for which the standard does not otherwise require use of one or more bacteria strains shall appear with the product name on the principal display panel or panels of the package in letters not less than one-half the height of the letters used in the product name.

(b) The director shall establish a minimum viable organism count for any bacteria strain approved pursuant to this section in any dairy product for which the standard does not otherwise require use of one

or more bacteria strains. The director shall also establish an official test procedure for the purpose of enforcing the minimum bacteria count level in any dairy products for which such a minimum has been established.

SEC. 2. Section 36896 of the Food and Agricultural Code is amended to read:

36896. Diabetic and dietetic ice cream is a frozen milk product which purports to be, or is represented, for special dietary use as the means of regulating intake of protein, fat, carbohydrate, or calories for dietary management in the control of disease. It shall not contain any added sugar, but shall otherwise conform to all applicable provisions of this division which relate to ice cream. Diabetic and dietetic ice cream may be labeled as frozen dietary dairy dessert. It shall be advertised, labeled, and sold pursuant to regulations which are adopted by the director.

SEC. 3. Section 37975 of the Food and Agricultural Code is amended to read:

37975. Any cheese which is cut and wrapped or packaged into individual consumer packages shall, at the time of sale to the retail consumer, be labeled to indicate all of the following:

(a) That it is pasteurized, made from pasteurized products, or that it has been cured for at least 60 days.

(b) The variety.

(c) The name and address of the manufacturer or distributor.

All cheese which is sold in individual consumer packages, except those cheeses defined in Sections 37641, 37642, 37643, and 37647, shall be labeled with the words "part skim" or "skim," as the case may be, if the cheese is made from part skim milk or from skim milk.

SEC. 4. The heading of Article 22 (commencing with Section 38001) of Chapter 4 of Part 3 of Division 15 of the Food and Agricultural Code is amended and renumbered to read:

Article 23. Violations

SEC. 5. Article 22 (commencing with 37981) is added to Chapter 4 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 22. Reduced Fat Cheese

37981. (a) Reduced fat cheese is a product prepared by the procedures specified in Article 2 (commencing with Section 37431) or by any alternate procedure approved by the director.

(b) Reduced fat cheese shall contain the ingredients permitted in the referenced, standard variety of the cheese or any other ingredients approved by the director.

(c) Regardless of the procedures and ingredients used in manufacturing reduced fat cheese, the product shall have the same, or substantially the same, flavor, texture, and body characteristics as the referenced, standard variety of the cheese as defined in this

chapter or in regulations adopted pursuant to subdivision (a) of Section 37402.

(d) Reduced fat cheese, as defined in this article, shall not be nutritionally inferior to the referenced, standard variety of the cheese under the criteria set forth in subdivision (e) of Section 101.3 of Title 21 of the Code of Federal Regulations and any other applicable federal or state statutes or regulations.

37982. Reduced fat cheese shall meet all standards and requirements for the standard variety of the cheese used in the name of the reduced fat cheese except for the following:

(a) Reduced fat cheese shall achieve a milk fat reduction of between 33⅓ percent and 40 percent, as measured against the higher of the minimum milk fat required by statute or regulation for the referenced, standard variety of the cheese or the normal milk fat content of the referenced, standard variety of the cheese substantiated by a credible data base.

(b) Reduced fat cheese shall contain not more than 120 percent of the maximum moisture allowed in the referenced, standard cheese as determined by the Association of Official Analytical Chemists (AOAC) procedures.

(c) Reduced fat cheese may contain added vitamin A.

37983. (a) The name of the food defined in this article shall be "reduced fat _____ cheese," with the blank to be filled in with the name of a cheese variety defined in this chapter or by regulations promulgated pursuant to subdivision (a) of Section 37402.

(b) The product name shall be presented in bold type on the principal display panel in a size reasonably related to the most prominent printed matter on the panel, and shall be in lines parallel to the base on which the package rests as it is designed to be displayed to the consumer.

(c) The label shall include a statement on the principal display panel clearly and concisely describing, in close conjunction with the name of the reduced fat cheese and in letters not less than one-half the height of the tallest letters used in the name of the product, a comparison of the fat content of the reduced fat cheese with the referenced, standard variety of the cheese.

37984. Reduced fat cheese, as defined in this article, shall bear nutrition, fat, fatty acid, and cholesterol labeling comparing the reduced fat cheese to the referenced, standard variety of the cheese in conformity with Sections 101.9 and 101.25 of Title 21 of the Code of Federal Regulations and any other applicable federal regulations or statutes.

37985. This article shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 6. Article 15 (commencing with Section 39841) is added to Chapter 9 of Part 3 of Division 15 of the Food and Agricultural Code, to read:

Article 15. UHT Flavored Nonfat Milk

39841. UHT flavored nonfat milk is market milk from which has been removed all or part of the milk fat and to which has been added any harmless syrup or flavoring, harmless sweetening, and harmless edible stabilizer. It is homogenized and processed and packaged pursuant to Section 39701. The product may be called "UHT flavored nonfat milk" or "UHT flavored skim milk" and the principal flavor may be substituted for the word "flavored" in the name of the product.

39842. UHT flavored nonfat milk shall contain not more than one-fourth of 1 percent of milk fat and not less than 8.25 percent of milk solids-not-fat.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 8. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Product standards and labeling requirements are necessary to provide for the lawful distribution of various dairy products within the state. In order to provide these statutory standards and requirements as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1170

An act to amend Sections 17048 and 25125 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 17048 of the Revenue and Taxation Code is amended to read:

17048. (a) In lieu of the tax imposed under Section 17041, individuals with taxable income of such amounts as prescribed by the Franchise Tax Board, shall compute their taxes under tax tables prescribed by the Franchise Tax Board. The tax tables shall reflect the tax imposed under Section 17041 in income progressions of not less than one hundred dollars ($100), giving effect to the marital or

other status of the individual. For purposes of this part, the tax imposed by this section shall be treated as tax imposed by Section 17041.

(b) Subdivision (a) shall not apply to any of the following:

(1) An individual to whom subdivision (b) of Section 17504 (relating to the tax on lump-sum distributions) applies for the taxable year.

(2) An individual making a return under Section 443(a)(1) of the Internal Revenue Code for a period of less than 12 months on account of a change in annual accounting period.

(3) An estate or trust.

SEC. 2. Section 25125 of the Revenue and Taxation Code is amended to read:

25125. (a) Capital gains and losses from sales of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales of tangible personal property are allocable to this state if:

(1) The property had a situs in this state at the time of the sale, or

(2) The taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Except in the case of the sale of a partnership interest, capital gains and losses from sales of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(d) Gain or loss on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in the state to the original cost of partnership tangible property everywhere, determined at the time of the sale. In the event that more than 50 percent of the value of partnership's assets consist of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

SEC. 3. Section 2 of this act shall become operative January 1, 1989, and shall apply only to income years beginning on or after January 1, 1989.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1171

An act to add Section 4106 to the Food and Agricultural Code, relating to public agencies.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 4106 is added to the Food and Agricultural Code, to read:

4106. (a) The California Museum of Science and Industry shall work with the Los Angeles Memorial Coliseum Commission, the City of Los Angeles, and the County of Los Angeles to develop additional parking facilities in Exposition Park to the extent necessary to allow for expansion of the park.

(b) The California Museum of Science and Industry shall manage or operate its parking facilities in a manner which preserves and protects the interests of itself and the California Afro-American Museum and recognizes the cultural and educational character of Exposition Park.

(c) The first eight hundred thirty-two thousand seven hundred sixty-five dollars ($832,765) of revenues received each year by the California Museum of Science and Industry from parking facilities, from rental of museum facilities, or from other business activities shall be deposited in the General Fund.

(d) The Exposition Park Improvement Fund is hereby created in the State Treasury. All revenues received by the California Museum of Science and Industry from its parking facilities, from rental of museum facilities, or from other business activities, in excess of the eight hundred thirty-two thousand seven hundred sixty-five dollars ($832,765) deposited each year in the General Fund, shall be deposited in the Exposition Park Improvement Fund.

(e) The moneys in the Exposition Park Improvement Fund may only be used, upon appropriation by the Legislature, for improvements to Exposition Park, including, but not limited to, maintenance of existing parking and museum facilities, replacement of museum equipment, supplies and wages expended to generate revenues from rental of museum facilities, development of new parking facilities and acquisition of land within or adjacent to Exposition Park.

CHAPTER 1172

An act to amend Sections 36503, 53072, and 56121 of the Government Code, relating to local agencies.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 36503 of the Government Code is amended to read:

36503. Unless otherwise required by Section 57379 and except as authorized by Section 36503.5 or 36504, a general municipal election shall be held on the second Tuesday in April in each even-numbered year. Except as otherwise provided in this title, all elective city offices shall be filled by the city electorate at a general municipal election. City officers holding elective city office shall hold office for their prescribed terms from the Tuesday succeeding their election and until their successors are elected and qualified.

SEC. 2. Section 53072 of the Government Code is amended to read:

53072. Whenever a special district as defined in Section 56036 is formed, the district shall reimburse the county in which all or a portion of the district is located for the expenses incurred by the county for calling and conducting the election establishing such district.

SEC. 3. Section 56121 of the Government Code is amended to read:

56121. No change of organization or reorganization, or any term or condition of a change of organization or reorganization, shall impair the rights of any bondholder or other creditor of any county, city, or district. Nor shall any change of organization or reorganization, or any term or condition of a change of organization or reorganization, impair the contract rights, or contracts entered into by a public entity created by a joint exercise of powers agreement established pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. Notwithstanding any provision of this division, or of any change of organization or reorganization, or any term or condition of a change of organization or reorganization, each and every bondholder or other creditor may enforce all of his or her rights in the same manner, and to the same extent, as if the change of organization, reorganization, term, or condition had not been made. Those rights may also be enforced against agencies, and their respective officers, as follows:

(a) Annexation or detachment: against the city or district to, or from, which territory is annexed or detached.

(b) Incorporation: against the newly incorporated city.

(c) Formation: against the newly formed district.

(d) Disincorporation: against the successor county receiving distribution of the remaining assets of the disincorporated city.

(e) Dissolution: against the local agency receiving distribution of all or any part of the remaining assets of a dissolved district.

(f) Consolidation: against the consolidated successor city or district.

(g) Reorganization: against the affected city or district, successor county or newly incorporated city or newly formed district, as the case may be, for any of the above enumerated changes of organization or city incorporations which may be included in the particular reorganization.

CHAPTER 1173

An act to amend Section 71008 of, and to add Section 69503.2 to, the Government Code, relating to records.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 69503.2 is added to the Government Code, to read:

69503.2. All papers and records in any civil action dismissed by the court pursuant to Section 583.210, 583.310, or 583.410 of the Code of Civil Procedure or upon request of the plaintiff may be destroyed without the need to microfilm the court record if no document other than the request for dismissal has been filed subsequent to the complaint. Notice of dismissal shall advise the plaintiff that no microfilm will be made. The dismissal order may authorize the clerk of the court to dispose of the court record without the need to microfilm the court record after 60 days from the date of the order. If a court record is disposed of under this section, the clerk of the court shall enter that information on the index as required by Section 69842 or on a separate dismissal index.

SEC. 2. Section 71008 of the Government Code is amended to read:

71008. (a) All papers and records filed and kept in all proceedings in municipal and justice courts, may, upon the order of the presiding judge of any such court, be destroyed after the expiration of the minimum retention period set forth in subdivision (b) or (c), as applicable. The retention period shall be measured from the determination of the proceeding or of the forfeiture of bail in cases in which no other proceedings are had during a like period following such forfeiture.

(b) The minimum retention periods for all papers and records

other than those set forth in subdivision (c) are, as follows:

(1) Two years for cases involving alleged violations of Chapter 9 (commencing with Section 22500) of Division 11 of the Vehicle Code or of any local ordinance adopted pursuant thereto, for cases relating to stopping, standing, or parking, and for cases involving alleged violations of Division 14 (commencing with Section 30501) of the Food and Agricultural Code or of any local ordinance adopted pursuant thereto relating to the regulation or licensing of dogs. Records for cases involving alleged violations of subdivision (b) or (c) of Section 11357 or subdivision (c) of Section 11360 of the Health and Safety Code may be destroyed after two years in accordance with Section 11361.5 of the Health and Safety Code.

(2) Three years for those records specified in Section 1269 of the Penal Code and for all other records not specified in this section.

(3) Four years for all infraction cases not specified in paragraph (1), and for any misdemeanor case involving an alleged violation of the Vehicle Code other than Sections 14601, 14601.1, 20002, 23103, 23104, 23105, 23106, 23152, and 23153.

(4) Except as specified in paragraph (5), five years for all other misdemeanor cases, including cases involving alleged violations of Section 14601, 14601.1, 20002, 23104, 23105, or 23106 of the Vehicle Code, and all felony cases.

(5) Seven years for any misdemeanor case involving an alleged violation of Section 23103, 23152, or 23153 of the Vehicle Code.

(6) Ten years in any civil action or special proceeding, including small claims actions, from the date on which judgment became final, or if the case was not prosecuted to judgment, after a like period from the date of commencement of the action or proceeding.

(c) The minimum retention period for the docket, register of actions, and indexes in any municipal or justice court action governed by paragraphs (4), (5), and (6) of subdivision (b) shall be 10 years, except that upon the written request of any party to an action involving the records governed by paragraphs (4), (5), and (6) of subdivision (b) the docket or register of actions shall be retained for an additional 10 years. In all other cases, the docket and minutes may be destroyed concurrently with other papers and records affecting the case.

(d) All papers and records in any civil action dismissed by the court or dismissed upon request of the plaintiff may be destroyed if either of the following conditions are met:

(1) The plaintiff's request for dismissal of an action in its entirety is filed with the clerk of the court and no document has been filed subsequent to the complaint.

(2) The parties are notified that the action is to be dismissed and the parties have the opportunity to file written opposition within 30 days.

If no written opposition is received and the court dismisses the action, the dismissal order shall authorize the clerk of the court to destroy the court record after 60 days from the date of the order. If

a court record is destroyed under this section, the clerk of the court shall enter that information on the court's index, register of action, or on an electronic record.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1174

An act to amend Sections 50093 and 50097 of, and to add Section 50662.2 to, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 50093 of the Health and Safety Code is amended to read:

50093. "Persons and families of low or moderate income" means persons and families whose income does not exceed 120 percent of area median income, adjusted for family size by the department in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. However, the agency and the department jointly, or either acting with the concurrence of the Secretary of the Business and Transportation Agency, may permit the agency to use higher income limitations in designated geographic areas of the state, upon a determination that 120 percent of the median income in the particular geographic area is too low to qualify a substantial number of persons and families of low or moderate income who can afford rental or home purchase of housing financed pursuant to Part 3 (commencing with Section 50900) without subsidy.

"Persons and families of low or moderate income" includes very low income households, as defined in Section 50105 and lower income households as defined in Section 50079.5, and includes persons and families of low income, persons and families of moderate income, and middle-income families. As used in this division:

(a) "Persons and families of low income" or "persons of low income" means persons or families who are eligible for financial

assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

(b) "Persons and families of moderate income" or "middle-income families" means persons and families of low or moderate income whose income exceeds the income limit for lower income households.

(c) "Persons and families of median income" means persons and families whose income does not exceed the area median income, as adjusted by the department for family size in accordance with adjustment factors adopted and amended from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937.

As used in this section, "area median income" means the median family income of a geographic area of the state, as annually estimated by the United States Department of Housing and Urban Development pursuant to Section 8 of the United States Housing Act of 1937. In the event these federal determinations of area median income are discontinued, the department shall establish and publish as regulations income limits for persons and families of median income for all geographic areas of the state at 100 percent of area median income, and for persons and families of low or moderate income for all geographic areas of the state at 120 percent of area median income. These income limits shall be adjusted for family size and shall be revised annually.

For purposes of this section, the department shall file, with the Office of Administrative Law, any changes in area median income and income limits determined by the United States Department of Housing and Urban Development, together with any consequent changes in other derivative income limits determined by the department pursuant to this section. These filings shall not be subject to Article 5 (commencing with Section 11346) or Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, but shall be effective upon filing with the Office of Administrative Law and shall be published as soon as possible in the California Regulatory Code Supplement and the California Code of Regulations.

The department shall establish and publish a general definition of income, including inclusions, exclusions, and allowances, for qualifying persons under the income limits of this section and Sections 50079.5 and 50105, to be used where no other federal or state definitions of income apply. This definition need not be established by regulation.

Nothing in this division shall prevent the agency or the department from adopting separate family size adjustment factors or programmatic definitions of income to qualify households, persons, and families for programs of the agency or department, as the case may be.

SEC. 2. Section 50097 of the Health and Safety Code is amended to read:

50097. "Rehabilitation standards" means applicable state or local building or housing standards adopted pursuant to the State Housing Law, Part 1.5 (commencing with Section 17910) of Division 13, or continued in effect pursuant thereto.

For the purposes of Chapter 6.5 (commencing with Section 50660) of Part 2, "rehabilitation standards" (a) includes room additions necessary to prevent overcrowding of low-income or moderate-income households and (b) additionally, includes changes in grade, drainage facilities, or other improvements related to flood control and required by local ordinance or regulation as a condition to continued operation of a mobilehome park applying for or receiving a loan pursuant to Section 50662.2.

SEC. 3. Section 50662.2 is added to the Health and Safety Code, to read:

50662.2. Deferred-payment loans may be made to finance actual costs incurred to meet rehabilitation standards for rehabilitation of mobilehome parks, as defined in Section 18214, for occupancy by lower income households.

CHAPTER 1175

An act to add Sections 460.5, 1063.5, 3553, and 3554 to, and to repeal Section 3542.5 of, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature, in adding Sections 460.5, 1063.5, 3553, and 3554 to the Public Utilities Code, to upgrade the professional standards of corporations and persons doing business or entering into operation as highway common carriers, cement carriers, and highway permit carriers so that both highway safety and public service are improved. It is the further intent of the Legislature that the Public Utilities Commission will promptly implement the requirements of those sections, in consultation with the Department of the California Highway Patrol. Nothing in those sections requires the department to perform additional terminal inspections for any newly certificated or permitted carrier or transferee of an existing certificate or permit.

SEC. 2. Section 460.5 is added to the Public Utilities Code, to read:

460.5. On or before July 1, 1989, every highway common carrier employing workers and cement carrier employing workers shall file with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to

self-insure issued by the Director of Industrial Relations.

SEC. 3. Section 1063.5 is added to the Public Utilities Code, to read:

1063.5. (a) The commission shall issue or authorize the transfer of no certificate under this article except upon a showing before the commission and a finding by the commission that the applicant or proposed transferee meets all of the following requirements:

(1) Is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol governing highway safety.

(2) Is committed to observing the hours of service regulations of state and, where applicable, federal law, for all persons, whether employees or subhaulers, operating vehicles in transportation for compensation under the certificate.

(3) Has a preventive maintenance program in effect for its vehicles used in transportation for compensation that conforms to regulations of the Department of the California Highway Patrol in Title 13 of the California Code of Regulations.

(4) Participates in a program to regularly check the driving records of all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation requiring a class 1 driver's license under the certificate.

(5) Has a safety education and training program in effect for all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation.

(6) Will maintain its vehicles used in transportation for compensation in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

(7) Has filed with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to self-insure issued by the Director of Industrial Relations.

(8) Has provided the commission an address of an office or terminal where documents supporting the factual matters specified in the showing required by this section may be inspected by the commission and the Department of the California Highway Patrol.

(b) With respect to paragraphs (2) and (6) of subdivision (a), the commission may base a finding on a certification by the commission that an applicant has filed, with the commission, a sworn declaration of ability to comply and intent to comply.

(c) The commission shall, commencing on April 15, 1989, and quarterly thereafter, prepare and submit to the Legislature a report of its implementation of this section. This report may be combined with the report required by Section 3553.

SEC. 4. Section 3542.5 of the Public Utilities Code is repealed.

SEC. 5. Section 3553 is added to the Public Utilities Code, to read:

3553. (a) The commission shall issue or authorize the transfer of

no permit under this chapter except upon a showing before the commission and a finding by the commission that the applicant or proposed transferee meets all of the following requirements:

(1) Is financially and organizationally capable of conducting an operation that complies with the rules and regulations of the Department of the California Highway Patrol governing highway safety.

(2) Is committed to observing the hours of service regulations of state and, where applicable, federal law, for all persons, whether employees or subhaulers, operating vehicles in transportation for compensation under the permit.

(3) Has a preventive maintenance program in effect for its vehicles used in transportation for compensation that conforms to regulations of the Department of the California Highway Patrol in Title 13 of the California Code of Regulations.

(4) Participates in a program to regularly check the driving records of all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation requiring a class 1 driver's license under the permit.

(5) Has a safety education and training program in effect for all persons, whether employees or subhaulers, operating vehicles used in transportation for compensation.

(6) Will maintain its vehicles used in transportation for compensation in a safe operating condition and in compliance with the Vehicle Code and with regulations contained in Title 13 of the California Code of Regulations relative to motor vehicle safety.

(7) Has filed with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to self-insure issued by the Director of Industrial Relations.

(8) Has provided the commission an address of an office or terminal where documents supporting the factual matters specified in the showing required by this section may be inspected by the commission and the Department of the California Highway Patrol.

(b) With respect to paragraphs (2) and (6) of subdivision (a), the commission may base a finding on a certification by the commission that an applicant has filed, with the commission, a sworn declaration of ability to comply and intent to comply.

(c) The commission shall, commencing on April 15, 1989, and quarterly thereafter, prepare and submit to the Legislature a report of its implementation of this section. This report may be combined with the report required by Section 1063.5.

SEC. 6. Section 3554 is added to the Public Utilities Code, to read:

3554. On or before July 1, 1989, every highway permit carrier employing workers shall file with the commission a certificate of workers' compensation insurance coverage for its employees or a certificate of consent to self-insure issued by the Director of Industrial Relations.

SEC. 7. The sum of fifty-four thousand dollars ($54,000) is hereby

appropriated from the Transportation Rate Fund to the Public Utilities Commission for purposes of carrying out Sections 460.5, 1063.5, 3553, and 3554 of the Public Utilities Code.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1176

An act to amend Sections 20607, 21252.02, 21290.01, 21290.5, and 21292.1 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 20607 of the Government Code is amended to read:

20607. (a) The normal rate of contribution for state peace officer/firefighter members and for local safety members subject to Section 21252.02 shall be 8 percent of the compensation in excess of two hundred thirty-eight dollars ($238) per month paid those members.

(b) Notwithstanding any other provision of this part, state member contributions on premium compensation for planned overtime paid at the "half-time" rate as part of the regular shift under the federal Fair Labor Standards Act or the Memorandum of Understanding of State Bargaining Unit 8 are waived for the period April 15, 1985, through June 30, 1988.

This subdivision applies to State Bargaining Unit 8 and becomes effective only if the board approves a waiver of employer contributions on the same premium compensation for the same period of time. If this subdivision is approved by the board, benefits shall be calculated to include overtime paid at the one-half time rate.

SEC. 2. Section 21252.02 of the Government Code is amended to read:

21252.02. The combined current and prior service pensions for state peace officer/firefighter members subject to this section with respect to state peace officer/firefighter service and the combined current and prior service pensions for local safety members with respect to local safety service rendered to a contracting agency which is subject to this section is a pension derived from the contributions of the employer sufficient when added to the service

retirement annuity which is derived from the accumulated normal contributions of the state peace officer/firefighter member at the date of his or her retirement to equal the fraction of one-fiftieth of his or her final compensation set forth opposite his or her age at retirement taken to the preceding completed quarter-year, in the following table, multiplied by the number of years of state peace officer/firefighter service subject to this section with which he or she is credited at retirement.

Age at Retirement	Fraction
50	1.0000
50¼	1.0125
50½	1.0250
50¾	1.0375
51	1.0500
51¼	1.0625
51½	1.0750
51¾	1.0875
52	1.1000
52¼	1.1125
52½	1.1250
52¾	1.1375
53	1.1500
53¼	1.1625
53½	1.1750
53¾	1.1875
54	1.2000
54¼	1.2125
54½	1.2250
54¾	1.2375
55 and over	1.2500

In no event shall the current service pension and the combined current and prior service pensions under this section for all service to all employers exceed an amount which, when added to the service retirement annuity related to such service, equals 75 percent of final compensation. If the pension relates to service to more than one employer, or this section and Section 21252.6, and would otherwise exceed such maximum, the pension payable with respect to each section or employer shall be reduced in the same proportion as the allowance bears to the total allowance computed as though there were no limit, so that the total of such pensions shall equal the maximum.

The Legislature reserves, with respect to any member subject to this section, the right to provide for such adjustment of industrial disability retirement allowances because of earnings of a retired person and modification of the conditions and qualifications required for retirement for disability as it may find appropriate because of the

earlier age of service retirement made possible by the benefits under this section.

This section may be applied to related supervisory classes or confidential positions for the respective bargaining units specified in this section.

This section shall be operative with respect to state peace officer/firefighter members in Corrections Bargaining Unit No. 6, Protective Services and Public Safety Bargaining Unit No. 7, or Firefighters Bargaining Unit No. 8, in accordance with a memorandum of understanding reached between the state and the exclusive bargaining agent in the respective unit pursuant to the State Employer-Employee Relations Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1). This section also shall be operative with respect to the state peace officer/firefighter members employed by a California State University police department who are in Public Safety Unit No. 8 in accordance with a memorandum of understanding reached between the Board of Trustees of the California State University and the recognized employee organization pursuant to the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1).

This section shall also be operative with respect to a "state peace officer/firefighter member" defined in subdivision (a) of Section 20017.985 if authorized by, and in accordance with, a memorandum of understanding reached between the Trustees of the California State University and the recognized employee organization pursuant to the Higher Education Employer-Employee Relations Act (Chapter 12 (commencing with Section 3560) of Division 4 of Title 1).

Nothing in this section or in any other provision of law affected by the bill amending this section in 1984 of the 1983–84 Regular Session of the Legislature or the bill amending this section in 1986 of the 1985–86 Regular Session shall be construed as authorizing any future negotiation with respect to whether or not any bargaining unit specified in this section whose memorandum of understanding was previously approved by the Legislature pursuant to law and this section, shall continue to remain within the state peace officer/firefighter membership category.

The operative date of this section with respect to members in each of the bargaining units specified in this section shall be as provided for in the memorandum of understanding.

This section shall not apply to a person whose effective date of retirement is prior to the operative date of this section with respect to the bargaining unit of the person.

This section shall be known as, and may be cited as the State Peace Officers' and Fire Fighters' Retirement Act.

The Legislature reserves the right to subsequently modify or amend this part in order to completely effectuate the intent and purposes of this section and the right to not provide any new

comparable advantages if disadvantages to employees result from any such modification or amendment.

This section shall not apply to a contracting agency nor its employees unless and until, first, it is agreed to in a written memorandum of understanding entered into by an employer and representatives of employees and, second, the contracting agency elects to be subject to it by amendment to its contract made in the manner prescribed for approval of contracts or in the case of a new contract, by express provision of the contract. The operative date of this section with respect to a local safety member shall be the effective date of the amendment to his or her employers contract electing to be subject to this section.

SEC. 3. Section 21290.01 of the Government Code is amended to read:

21290.01. Upon retirement for disability, a state miscellaneous member or a state industrial member, other than one subject to Section 21296, who has attained age 65 shall receive his or her service retirement allowance.

SEC. 4. Section 21290.5 of the Government Code is amended to read:

21290.5. Upon retirement for nonindustrial disability, a patrol member or local safety member subject to Section 21252.01 or 21252.02 or a state peace officer/firefighter who has attained age 50, or a state safety member who has attained age 55, shall receive his or her service retirement allowance.

SEC. 5. Section 21292.1 of the Government Code is amended to read:

21292.1. Upon retirement of a state peace officer/firefighter member or a local safety member subject to Section 21252.02 for industrial disability the member shall receive a disability allowance of 50 percent of his or her final compensation plus an annuity purchased with his or her accumulated additional contributions, if any, or, if qualified for service retirement, the member shall receive his or her service retirement allowance if the allowance, after deducting such annuity, is greater.

SEC. 6. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1177

An act to add Section 11353.7 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11353.7 is added to the Health and Safety Code, to read:

11353.7. Except as authorized by law, any person 18 years of age or older who unlawfully prepares for sale in a public park, including units of the state park system and state vehicular recreation areas, or sells or gives away a controlled substance to a minor under the age of 14 years in a public park, including units of the state park system and state vehicular recreation areas, during hours in which the public park, including units of the state park system and state vehicular recreation areas, is open for use, with knowledge that the person is a minor under the age of 14 years, shall be punished by imprisonment in the state prison for three, six, or nine years.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1178

An act to amend Sections 18010, 18013.2, 18027.3, and 18029.6 of, and to add Section 18025.6 to, the Health and Safety Code, relating to manufactured structures.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 18010 of the Health and Safety Code is amended to read:

18010. "Recreational vehicle" means either of the following:

(a) A motor home, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, which meets all of the following criteria:

(1) It contains less than 320 square feet of internal living room

area, excluding built-in equipment, including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(2) It contains 400 square feet or less of gross area measured at maximum horizontal projections.

(3) It is built on a single chassis.

(4) It is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

(b) A park trailer designed for human habitation for recreational or seasonal use only, which meets all of the following criteria:

(1) It contains 400 square feet or less of gross floor area measured at the maximum horizontal projections. However, it may not exceed 12 feet in width or 40 feet in length in the traveling mode.

(2) It is built on a single chassis.

(3) It may only be transported upon the public highways with a permit.

SEC. 2. Section 18013.2 of the Health and Safety Code is amended to read:

18013.2. "Third-party entity" or "third party," as used in this part, means an entity which is all of the following:

(a) In the business of inspecting equipment, systems, and assemblies and monitoring quality assurance programs, or analyzing plans, designs, specifications, and engineering calculations supporting design concepts.

(b) Not under the control or jurisdiction of any manufacturer or supplier for any affected industry except by contract as required and approved by the department.

(c) Making available specific information as required by the department.

(d) Approved by the department.

(e) This section shall remain in effect only until three calendar years subsequent to the initial approval date by the Department of Housing and Community Development of a third-party entity pursuant to subdivision (b) of Section 18020 or until January 1, 1990, whichever date occurs first, and as of that date is repealed unless a later enacted statute which is chaptered on or before the date of repeal deletes or extends those dates.

SEC. 3. Section 18025.6 is added to the Health and Safety Code, to read:

18025.6. When a standard for manufactured homes which was adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401 et seq.), is repealed by the United States Department of Housing and Urban Development and no new preemptive federal standard is adopted as a replacement standard, the department may continue to enforce the federal standard for manufactured homes to be sold in this state, for a period of one year from the operative date of the repeal or until the department adopts a regulation to replace the repealed federal standard, whichever occurs first. The replacement

standard, if any, may be adopted as an emergency regulation.

SEC. 4. Section 18027.3 of the Health and Safety Code is amended to read:

18027.3. (a) Recreational vehicles specified in subdivision (a) of Section 18010 shall be constructed in accordance with Standard No. A119.2 of the American National Standards Institute, as that standard may be modified by the department's regulations.

(b) Recreational vehicles specified in subdivision (b) of Section 18010 shall be constructed in accordance with Standard No. A119.5 of the American National Standards Institute, as that standard may be modified by the department's regulations.

(c) Unless regulations of the department incorporating a change in Standard No. A119.2 or A119.5 by reference become operative sooner, a change therein contained in a new edition of the Standards of the American National Standards Institute shall become operative on the 180th day following the publication date. However, nothing in this subdivision limits the department's discretion to adopt modifications to Standard No. A119.2 or A119.5.

(d) No recreational vehicle shall be equipped with more than one electrical power supply cord.

SEC. 5. Section 18029.6 of the Health and Safety Code is amended to read:

18029.6. On or after January 1, 1986, all used manufactured homes and used mobilehomes which are sold shall have a smoke detector which is operable on the date of transfer of title. The department may promulgate regulations to carry out the provisions of this section.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1179

An act to amend Sections 17557, 17561, and 17610 of, and to add Sections 17554 and 17580 to, the Government Code, relating to state-mandated local costs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 17554 is added to the Government Code, to read:

17554. With the agreement of all parties to the claim, the commission may waive the application of any procedural requirement imposed by this chapter or pursuant to Section 17553 in order to expedite action on the claim. The authority granted by this section includes the consolidation of claims and the shortening of time periods.

SEC. 2. Section 17557 of the Government Code is amended to read:

17557. If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. A local agency, school district, and the state may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred, provided, however, that the commission shall not specify therein any fiscal year for which payment could be provided in the annual Budget Act. A test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

SEC. 2.5. Section 17557 of the Government Code is amended to read:

17557. If the commission determines there are costs mandated by the state pursuant to Section 17555, it shall determine the amount to be subvened to local agencies and school districts for reimbursement. In so doing it shall adopt parameters and guidelines for reimbursement of any claims relating to the statute or executive order. The successful test claimants shall submit proposed parameters and guidelines within 60 days of adoption of a statement of decision on a test claim. At the request of a successful test claimant, the commission may provide for one or more extensions of this 60-day period at any time prior to its adoption of the parameters and guidelines and for any length of time the commission specifies. If proposed parameters and guidelines are not submitted within the 60-day period and the commission has not granted an extension, then the commission shall notify the test claimant that the amount of reimbursement the test claimant is entitled to for the first 12 months of incurred costs will be reduced by 20 percent, unless the test claimant can demonstrate to the commission why an extension of the 60-day period is justified. A local agency, school district, and the state

may file a claim or request with the commission to amend, modify, or supplement the parameters or guidelines. The commission may, after public notice and hearing, amend, modify, or supplement the parameters and guidelines.

In adopting parameters and guidelines, the commission may adopt an allocation formula or uniform allowance which would provide for reimbursement of each local agency or school district of a specified amount each year.

The parameters and guidelines adopted by the commission shall specify the fiscal years for which local agencies and school districts shall be reimbursed for costs incurred, provided, however, that the commission shall not specify therein any fiscal year for which payment could be provided in the annual Budget Act. A test claim shall be submitted on or before December 31 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year.

SEC. 3. Section 17561 of the Government Code is amended to read:

17561. (a) The state shall reimburse each local agency and school district for all "costs mandated by the state," as defined in Section 17514.

(b) (1) For the initial fiscal year during which these costs are incurred, reimbursement funds shall be provided as follows:

(A) Any statute mandating these costs shall provide an appropriation therefor.

(B) Any executive order mandating these costs shall be accompanied by a bill appropriating the funds therefor, or alternatively, an appropriation for these costs shall be included in the Budget Bill for the next succeeding fiscal year. The executive order shall cite that item of appropriation in the Budget Bill or that appropriation in any other bill which is intended to serve as the source from which the Controller may pay the claims of local agencies and school districts.

(2) In subsequent fiscal years appropriations for these costs shall be included in the annual Governor's Budget and in the accompanying Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (a) of Section 17551 shall be included in the annual Governor's Budget and in the accompanying Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 17600 which includes the amounts awarded relating to these chaptered bills or executive orders.

(c) The amount appropriated to reimburse local agencies and school districts for costs mandated by the state shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of these mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of these mandates from local agencies or school

districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) When funds are appropriated to reimburse costs mandated by the state for the initial fiscal year during which these costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 120 days of the operative date of the mandate, or, if the commission is requested to do so pursuant to Section 17571, within 120 days after the commission reviews the claiming instructions for reimbursement issued by the Controller, whichever is later, a claim for payment of its estimated costs required by the mandate for the current fiscal year. If the local agency or school district does not submit the claim within the 120-day period, it may submit its claim for reimbursement as specified in Section 17560. The Controller shall pay these claims from the funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and (ii) may reduce any claim which the Controller determines is excessive or unreasonable.

(2) In subsequent fiscal years each local agency or school district shall submit its claims as specified in Section 17560. The Controller shall pay these claims from funds appropriated therefor, provided that the Controller (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which the Controller determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in previous fiscal years.

(3) When funds are appropriated to the Controller to reimburse costs mandated by the state, not otherwise funded, claims for initial year costs, and subsequent years for which costs have been incurred prior to the enactment of the claims bill, shall be filed within 120 days from the date on which the Controller issued claiming instructions on funded mandates contained in the claims bill. When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated costs. Any claim for initial reimbursement filed after the filing deadline shall be reimbursed at 80 percent of the amount which would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funded claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid. In no case shall a reimbursement claim be paid if submitted more than one year after the filing deadline specified in the Controller's claiming instructions on funded mandates contained in a claims bill. These claims shall be based upon parameters and guidelines issued by the commission and as approved by the Legislature. The Controller shall promptly notify the relevant local agencies or school

districts subsequent to enactment of the claims bill of the right to file these claims.

SEC. 4. Section 17580 is added to the Government Code, to read:

17580. No bill, except a bill containing an urgency clause, introduced or amended on or after January 1, 1989, that mandates a new program or higher level of service requiring reimbursement of local agencies or school districts pursuant to Section 6 of Article XIII B of the California Constitution shall become operative until the July 1 following the date on which the bill takes effect, unless the bill specifically makes this section inapplicable or contains an appropriation for the reimbursement or a specification that reimbursement be made pursuant to Section 17610.

SEC. 5. Section 17610 of the Government Code is amended to read:

17610. (a) The costs arising from a statute containing a statement that the statute mandates a new program or higher level of service and specifying that reimbursement shall be made from the fund shall, upon certification of the estimated statewide cost by the commission to the Controller, be paid from the fund, provided that the estimated statewide cost of the claim does not exceed one million dollars ($1,000,000). The Controller shall receive, review, and pay claims from the fund as the claims are received. Claims for initial reimbursement shall be filed with the Controller within 120 days after the close of the first full fiscal year following certification of the estimated statewide cost by the commission. When paying a timely filed claim for initial reimbursement, the Controller shall withhold 20 percent of the amount of the claim until the claim is audited to verify the actual amount of the mandated cost. Any claim for initial reimbursement filed after the filing deadline shall be reimbursed at 80 percent of the amount which would have been allowed had the claim been timely filed. The Controller may withhold payment of any late claim for initial reimbursement until the next deadline for funding claims unless sufficient funds are available to pay the claim after all timely filed claims have been paid.

(b) For purposes of this section, "estimated statewide cost" means the total amount of funds estimated to be necessary to reimburse all eligible local agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate.

(c) For purposes of this section, "costs arising from a statute" means the total amount of funds necessary to reimburse eligible local agencies and school districts for costs incurred as a result of complying with a mandate for the fiscal years specified in the parameters and guidelines in accordance with Section 17557.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 17557 of the Government Code proposed by both this bill and SB 2875. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, but this bill becomes operative first, (2) each bill amends Section 17557 of the

Government Code, and (3) this bill is enacted after SB 2875, in which case Section 17557 of the Government Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 2875, at which time Section 2.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to reimburse local agencies as soon as possible for state-mandated costs which they have already incurred, it is necessary for this act to take effect immediately.

CHAPTER 1180

An act to amend Sections 12070, 12071, 12072, and 12073 of, to add Sections 12081 and 12082 to, and to repeal and add Section 12077 of, the Penal Code, relating to firearms.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares as follows:

(a) The law on the transfer of firearms as defined in Section 12001 of the Penal Code is unclear as it relates to nondealer transfers between private parties. It has been stated in judicial decisions that on pure private transfers the 15-day statutory waiting period must elapse prior to delivery of the firearm and that the parties must personally know each other. Therefore, subdivision (e) as added to Section 12072 of the Penal Code by this act is merely declaratory of existing law.

(b) The Legislature further recognizes that there is no explicitly recognized statutory procedure whereby law-abiding citizens may transfer a pistol, revolver, or other firearm capable of being concealed upon the person through dealers and obtain the protection afforded by law. A procedure for the transfer of these firearms is recognized under federal law and in other states and has been found to be of benefit to firearm owners, law enforcement, and the general community. Therefore, the Legislature in amending subdivision (d) of Section 12072 of the Penal Code and adding Section 12082 to the Penal Code intends to give law abiding citizens the express statutory option of going through dealers to process their firearm transfers and to encourage the use of that process.

SEC. 2. The Legislature declares the following to be the public policy of this state:

(a) No person who buys or is transferred a firearm that was conducted through a person acting under Section 12082 of the Penal

Code shall incur any civil liability for any illicit use or possession of the firearm prior to his or her taking possession of the firearm if the person had no knowledge of that conduct.

(b) No person holding a license under Section 12071 of the Penal Code when transferring firearms pursuant to Section 12082 of the Penal Code shall assume any civil liability beyond that existing at the time of the effective date of this section when the person sells or transfers any firearms out of his or her own stock, if that person otherwise complies with Section 12082 of the Penal Code. No person acting as a dealer pursuant to Section 12071 of the Penal Code who is transferring firearms for third parties pursuant to Section 12082 of the Penal Code and which firearms are not out of his or her own stock shall assume any civil liability for any defects in those firearms unless he or she has actual knowledge of the defect.

(c) No person who transfers a pistol, revolver, or other firearm capable of being concealed upon the person through a dealer licensed pursuant to Section 12071 of the Penal Code in accordance with Section 12082 of the Penal Code and otherwise complies with the provisions of Article 3 (commencing with Section 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall incur any civil liability for subsequent misuse of the firearm by the transferee of that firearm if he or she had no knowledge of the misuse prior to the transfer.

(d) The declarations contained in this section are declaratory of existing law.

SEC. 3. Section 12070 of the Penal Code is amended to read:

12070. No person shall engage in the business of selling, leasing, transferring, advertising, offering, or exposing for sale, lease, or transfer, any pistol, revolver, or other firearm capable of being concealed upon the person unless he or she has been issued a license pursuant to Section 12071. Any person violating this section is guilty of a misdemeanor. As used in this article, engaging in the business of selling, leasing, or transferring pistols, revolvers, or other firearms capable of being concealed upon the person does not include the infrequent sale or transfer, offering, exposing for sale, lease, or advertising for sale any pistol, revolver, or other firearm capable of being concealed upon the person.

As used in this section, "infrequent" means occasional and without regularity.

SEC. 4. Section 12071 of the Penal Code is amended to read:

12071. (a) The duly constituted licensing authorities of any city, county, or city and county shall accept applications for, and may grant licenses, permitting the licensee to sell at retail within the city, county, or city and county, pistols, revolvers, and other firearms capable of being concealed upon the person. If a license is granted, it shall be in the form prescribed by the Attorney General, effective for not more than one year from the date of issue, and be subject to the following conditions, for breach of any of which the license shall be subject to forfeiture.

(1) The business shall be carried on only in the building designated in the license.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered:

(A) Within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(B) Unless unloaded and securely wrapped or unloaded and in a locked container.

(C) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity to the dealer.

(D) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(4) No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(5) The licensee shall agree to and shall act properly and promptly in processing transfers of pistols, revolvers, and other firearms capable of being concealed upon the person pursuant to Section 12082.

(6) The licensee shall comply with Sections 12073 and 12077 and subdivision (b) of Section 12072.

(b) As used in this article, "clear evidence of his or her identity" includes, but is not limited to, a motor vehicle operator's license, a state identification card, an armed forces identification card, an employment identification card which contains the bearer's signature and photograph, or any similar documentation which provides the seller reasonable assurance of the identity of the purchaser.

SEC. 5. Section 12072 of the Penal Code is amended to read:

12072. (a) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from owning or possessing these firearms.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any firearm capable of being concealed upon the person, to any person under the age of 21 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a pistol, revolver, or other firearm capable of being concealed upon the person to a transferee, as follows:

(1) Within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register, or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a pistol, revolver, or other firearm capable of being concealed upon the person, the parties to the transaction shall have the following alternatives to lawfully complete the transaction:

(1) They may complete the transaction through a licensed dealer pursuant to Section 12082; or

(2) They may comply with subdivision (e).

(e) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071 and the parties do not elect to conduct the transaction through a dealer acting pursuant to Section 12082, all of the following apply:

(1) No person shall sell or otherwise transfer any such firearm to any other person within this state if the purchaser or transferee is not personally known to the seller or transferor.

(2) The seller or transferor shall allow 15 days to elapse from the date the agreement is made to sell the firearm or the decision is made to transfer prior to delivery of the firearm to the purchaser or transferee.

(3) When delivered, the firearm shall be securely wrapped and unloaded or contained in a locked container and unloaded.

(f) A violation of this section is a misdemeanor.

SEC. 5.5. Section 12072 of the Penal Code, as amended by Chapter 163 of the Statutes of 1988, is amended to read:

12072. (a) No person, corporation, or dealer shall sell, deliver, or otherwise transfer any pistol, revolver, or other firearm capable of being concealed upon the person to any person whom he or she has cause to believe to be within any of the classes prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from owning or possessing these firearms.

(b) No person licensed under Section 12071 shall sell, deliver, or transfer any firearm capable of being concealed upon the person to any person under the age of 21 years.

(c) No dealer licensed pursuant to Section 12071, whether or not acting pursuant to Section 12082, shall deliver a pistol, revolver, or other firearm capable of being concealed upon the person to a transferee, as follows:

(1) Within 15 days of the application for the purchase, or, after notice by the department pursuant to subdivision (c) of Section 12076, within 15 days of the submission to the department of corrected copies of the register or within 15 days of the submission to the department of any fee required pursuant to subdivision (d) of Section 12076, whichever is later.

(2) Unless unloaded and securely wrapped or unloaded and in a locked container.

(3) Unless the purchaser or transferee presents clear evidence of his or her identity, as defined in Section 12071, to the dealer or is personally known to the dealer.

(4) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(d) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071, in order for a person to sell or otherwise transfer a pistol, revolver, or other firearm capable of being concealed upon the person, the parties to the transaction shall have the following alternatives to lawfully complete the transaction:

(1) They may complete the transaction through a licensed dealer pursuant to Section 12082; or

(2) They may comply with subdivision (e).

(e) Where neither party to the transaction holds a dealer's license issued pursuant to Section 12071 and the parties do not elect to conduct the transaction through a dealer acting pursuant to Section 12082, all of the following apply:

(1) No person shall sell or otherwise transfer any such firearm to any other person within this state if the purchaser or transferee is not personally known to the seller or transferor.

(2) The seller or transferor shall allow 15 days to elapse from the date the agreement is made to sell the firearm or the decision is made to transfer prior to delivery of the firearm to the purchaser or transferee.

(3) When delivered, the firearm shall be securely wrapped and unloaded or contained in a locked container and unloaded.

(f) A violation of this section is a misdemeanor. A second or subsequent violation of subdivision (b) shall be punished in accordance with the penalty and probation provisions of subdivision (d) of Section 12100 concerning subsequent convictions and probation.

SEC. 6. Section 12073 of the Penal Code is amended to read:

12073. (a) Every person in the business of selling, leasing or otherwise transferring a pistol, revolver, or other firearm, capable of being concealed upon the person, whether that seller, lessor, or transferor is a retail dealer, pawnbroker, or otherwise, except as provided by this chapter, shall keep a register in which shall be entered the information prescribed in Section 12077.

(b) This section shall not apply to wholesale dealers in their business intercourse with retail dealers, nor to wholesale or retail dealers in the regular or ordinary transport of unloaded firearms as merchandise to other wholesale or retail dealers by mail, express or other mode of shipment, to points outside of the city or county wherein they are situated.

SEC. 7. Section 12077 of the Penal Code is repealed.

SEC. 8. Section 12077 is added to the Penal Code, to read:

12077. (a) The Department of Justice shall prescribe the form of the register described in Section 12074. Information contained in the register shall be the date and time of sale, make of firearm, peace officer exemption status pursuant to Section 12078, and the agency name, manufacturer's name if stamped on the firearm, model name or number, if stamped on the firearm, if applicable, serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, color of the firearm, full name of purchaser, purchaser's complete date of birth, purchaser's local address, if current address is temporary, complete permanent address of purchaser, identification of purchaser, purchaser's place of birth (state or country), purchaser's complete telephone number, purchaser's occupation, purchaser's sex, purchaser's physical description, yes or no answer to questions that prohibit purchase including conviction of a felony or an offense described in Section 12021.1, purchaser's status as a mental patient, or whether purchaser is on leave of absence from a mental hospital pursuant to Section 8100 of the Welfare and Institutions Code, whether purchaser is a person who has been adjudicated by a court to be a danger to others or found not guilty by reason of insanity, whether purchaser is a person who has been found incompetent to stand trial or placed under conservatorship by a court pursuant to Section 8103 of the Welfare and Institutions Code, signature of purchaser, signature of salesperson (as a witness to the purchaser's signature), name and complete address of the dealer or firm selling the firearm as shown on the dealer's license, the establishment number, if assigned, the dealer's complete business telephone number, and a statement that any person signing a fictitious name or address or knowingly affixing an incorrect birthdate is guilty of a misdemeanor.

(b) (1) The original of each dealer's record of sale of a pistol, revolver, or other firearm capable of being concealed upon the person document shall be retained by the dealer in consecutive order. Each book of 50 originals shall become the permanent register of transactions that shall be retained for not less than three years

from the date of last transaction and shall be provided for the inspection of any peace officer, Department of Justice employee designated by the Attorney General or agents of the federal Bureau of Alcohol, Tobacco, and Firearms upon the presentation of proper identification.

(2) Dealers shall use ink to complete each document.

(3) The dealer or salesperson making a sale shall ensure that all information is provided legibly. The dealer and salespersons shall be informed that incomplete or illegible information will delay sales.

(4) Each original shall contain instructions regarding the procedure for completion of the form and routing of the form. Dealers shall comply with these instructions which shall include the information set forth in this subdivision.

(5) One firearm transaction shall be reported on each record of sale document.

SEC. 9. Section 12081 is added to the Penal Code, to read:

12081. A party may sell, deliver, or otherwise transfer a firearm to a person licensed under Section 12071 without waiting to deliver the firearm until the conclusion of the waiting period described in Section 12071 or 12072.

SEC. 10. Section 12082 is added to the Penal Code, to read:

12082. A person may complete any sale or other transfer of a pistol, revolver, or other firearm capable of being concealed upon the person through a dealer licensed pursuant to Section 12071 in accordance with this section in order to comply with the provisions of subdivision (d) of Section 12072. The Attorney General shall adopt regulations under this section to allow the seller or other transferor and the purchaser or transferee to complete a sale or other transfer through a dealer, and to allow those persons and the dealer to comply with the requirements of this section and of Sections 12071, 12072, 12076, and 12077 and to preserve the confidentiality of records. The register shall state the name and address of the seller or transferor of the firearm in addition to any other information required by Section 12077. Both parties to the transaction shall appear in person at the dealer's place of business. The seller or transferor shall deliver the firearm to the dealer who shall retain possession of that firearm. The dealer shall then deliver the firearm to the transferee, if it is not prohibited, in accordance with the provisions of subdivision (c) of Section 12072. If the dealer cannot legally transfer the firearm to the transferee, the dealer shall forthwith, without waiting for the conclusion of the waiting period described in Sections 12071 and 12072, return the firearm to the transferor if to do so is not in violation of subdivision (a) of Section 12072. If the dealer cannot legally return the firearm to the transferor, then the dealer shall forthwith deliver the firearm to the sheriff of the county or the chief of police or other head of a municipal police department of any city or city and county who shall then dispose of the firearm in the manner provided by Sections 12028 and 12032. The purchaser or transferee may be required by the dealer to pay a fee not to exceed the actual cost of

processing the application, including the amount of a fee which the Department of Justice may charge pursuant to subdivision (d) of Section 12076 plus a fee of ten dollars ($10) to the dealer for processing the transfer.

A violation of this section by a dealer is a misdemeanor.

SEC. 10.5. Section 5.5 of this bill incorporates amendments to Section 12072 of the Penal Code proposed by both this bill and AB 2768. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 12072 of the Penal Code, and (3) this bill is enacted after AB 2768, in which case Section 5 of this bill shall not become operative.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 12. This act shall become operative only if Assembly Bill 3625 of the 1987–88 Regular Session is chaptered.

CHAPTER 1181

An act to add Sections 61621.6 and 61621.7 to the Government Code, and to amend Sections 15 and 15.2 of, to repeal and add Section 19 of, and to repeal Section 15.1 of, the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), relating to special districts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 61621.6 is added to the Government Code, to read:

61621.6. (a) The Big Bear City Community Services District may, by ordinance, require, as a water conservation measure, the installation of water meters and may collect from the owners of the lots and parcels of land where the meters are installed the costs of

the meters and their installation. The costs shall constitute charges for services and facilities furnished by the district pursuant to Section 61621. The costs may be collected by the district on regular periodic statements for water service or may be collected on the tax statements of owners of the lots and parcels of land where the meters are installed over a repayment period of not less than 10 years.

(b) Prior to installing the meters and adding the costs thereof to regular statements for water service or collecting those costs on tax statements, the board of directors of the district shall fix the time and place of a hearing on the installation of the meters and the collection of the costs thereof on water service or tax statements, and shall give notice of the time and place of the hearing to the owners of the lots or parcels of land affected which shall contain all of the following:

(1) A description of the lots and parcels of land where meters will be installed, which description may be made by reference to a plat or diagram on file in the office of the secretary of the board of directors, or to maps prepared in accordance with Section 327 of the Revenue and Taxation Code and on file in the office of the county assessor.

(2) The cost of the installation of a meter.

(3) The number of installments and period of time in which the cost of installing meters will be payable.

(4) That costs of installing the meters will be collected in installments on regular periodic statements for water service or on annual tax statements.

(5) That if the costs are collected in installments on the tax statements, they shall constitute a lien against the lots or parcels of land to which they relate to the same extent as the lien of general property taxes.

(6) The time and place at which the board of directors will hold a hearing at which persons may appear and present any objections they may have to the installation of the meters and the collection of the costs thereof in installments on regular periodic statements for water service or on tax statements.

(c) The notice shall be published pursuant to Section 6066 prior to the date set for the hearing. At least 10 days prior to the date of the hearing, written notice containing the information prescribed in subdivision (b) shall be mailed to all persons owning lots and parcels where meters will be installed whose names and addresses appear on the last equalized county assessments roll.

(d) At the time stated in the notice, the board of directors shall hear and consider all objections or protests, if any, to the installation of meters and the collection of the costs thereof and may continue the hearing from time to time. Upon conclusion of the hearing, the board of directors shall determine, by resolution, whether to proceed with the installation of meters and the collection of the costs thereof in installments on regular statements for water service or annual tax statements.

SEC. 2. Section 61621.7 is added to the Government Code, to

read:

61621.7. (a) The Big Bear City Community Services District may, as a condition to the issuance of building permits, by ordinance, require, as a water conservation measure, installation of low-flush toilets and low-flow shower heads in all newly constructed buildings or additions to existing buildings which will add plumbing fixtures to those buildings. The low-flush toilets shall have a tank capacity of not more than one and one-half gallons, and low-flow shower heads shall have a rate of flow of not more than two and one-half gallons per minute. Upon adopting an ordinance requiring installation of these water conserving fixtures, the district shall transmit a certified copy thereof to the building department and the clerk of the Board of Supervisors of the County of San Bernardino, and the county shall implement the district's ordinance by requiring the installation of the water conserving fixtures.

(b) The district may also expend its funds to install the water conserving fixtures in existing residences upon obtaining the consent of the owners.

SEC. 3. Section 15 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 15. The agency may acquire water and water rights, including, but not limited to, water from the State of California under the State Water Resources Development System, and provide, sell, and deliver that water at wholesale only, for municipal, industrial, domestic, and other purposes, through a transmission system to be acquired or constructed by the agency. To carry out these purposes, the agency shall have the following powers:

(a) To have perpetual succession.

(b) To sue and be sued, except as otherwise provided herein or by law, in all actions and proceedings in all courts and tribunals of competent jurisdiction.

(c) To adopt a seal and alter it at pleasure.

(d) To take by grant, purchase, gift, devise, or lease, hold, use, enjoy, and to lease or dispose of real and personal property of every kind, within or without the agency.

(e) To acquire, or contract to acquire, waterworks or a waterworks system, water rights, waters; lands, and rights and privileges and to construct, complete, extend, add to, repair, maintain, improve, and operate waterworks or a waterworks system, conduits, pipelines, reservoirs, works, machinery, and other property or facilities useful or necessary to import, store, treat, reclaim, conserve, convey, or supply water for the benefit and use of residents and owners of property within the agency, and otherwise for authorized agency purposes.

(f) To lease of and from any person, firm, public or private corporation, or public agency, with the privilege of purchasing or otherwise, all or any part of water storage, transportation or distribution facilities, existing waterworks or a waterworks system,

and to carry on and conduct waterworks or a waterworks system; also to sell for use within the area of the agency at wholesale only water of the agency to cities, to other public corporations and public agencies, and to water corporations as defined in the Public Utilities Code of the State of California, and to any mutual water companies engaged in distributing water to its members for use, without any preference and it may, whenever the board shall find that there is a surplus of water above that which may be required by those consumers within the agency, sell or otherwise dispose of that surplus water to any persons, firms, public or private corporations, or public agencies or other consumers.

(g) To exercise the right of eminent domain to take any property necessary or desirable for any facility reasonably required for the importation and transmission of water in the area of the agency. The agency in exercising such power, shall in addition to the damage for the taking, injury, or destruction of property, also pay the cost of removal, reconstruction, or relocation of any structure, railways, mains, pipes, conduits, wires, cables or poles of any public utility which is required to be removed to a new location. No action in eminent domain to acquire property outside the boundaries of the agency shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(h) To issue bonds, borrow money, and incur indebtedness as authorized by law or in this act provided; also to refund (by the issuance of the same obligations following the same procedure) or retire any indebtedness or lien that may exist against the agency or property thereof.

(i) To issue negotiable promissory notes bearing interest at a rate not exceeding the maximum rate per annum authorized by Section 27; provided, however, that the notes shall be general obligations of the agency payable from revenues and taxes in the same manner as bonds of the agency; and provided further that the maturity shall not be later than five years from the date thereof and that the total aggregate amount of the notes outstanding at any one time may be at least equal to seventy-five thousand dollars ($75,000) but shall not otherwise exceed the lesser of either one million dollars ($1,000,000) or 2 percent of the assessed valuation of the taxable property in the agency, or, if that assessed valuation is not obtainable, 2 percent of the county auditor's estimate of the assessed valuation of the taxable property in the agency evidenced by his or her certificate.

(j) To cause taxes to be levied, in the manner hereinafter provided, for the purpose of paying any obligation of the agency, including its formation expenses and any warrants issued therefor.

(k) To restrict the use of agency water during any emergency caused by drought, or other threatened or existing water shortage, and to prohibit the wastage of agency water or the use of agency water during those periods, for any purpose other than household uses or such other restricted uses as may be determined to be necessary by the agency; to prohibit the use of agency water during

those periods for specified uses which the agency may from time to time find to be nonessential.

(*l*) To prescribe and define by ordinance, the restrictions, prohibitions, and exclusions referred to in subdivision (k). Every ordinance relating to the matters referred to in this subdivision shall be in full force and effect forthwith upon adoption, but shall be published once in full within 10 days after adoption in a newspaper of general circulation published in the agency or, if no such newspaper is published in the agency, in a newspaper of general circulation distributed in the agency.

(m) To make contracts, to employ labor, and do all acts necessary for the full exercise of the foregoing powers.

(n) To provide by ordinance of its board of directors for the pensioning of employees and the creation of a special fund for the purpose of paying those pensions, and the accumulation of contributions to the fund from the revenues of the agency, the wages of employees, voluntary contributions, gifts, donations, or any source of revenue not inconsistent with the general powers of the board, and to contract with any insurance corporation or any other insurance carrier for the maintenance of a service covering the pension of the employees, and to provide in the ordinance for the terms and conditions under which the pensions shall be awarded, and for the time and extent of service of employees before the pensions shall be available to them.

(o) To join with one or more public agencies, private corporations, or other persons for the purpose of carrying out any of the powers of the agency, and for that purpose to contract with such other public agencies or private corporations or persons for the purpose of financing those acquisitions, constructions, and operations. The contracts may provide for contributions to be made by each party thereto and for the division and apportionment of the expenses of the acquisitions and operations, and the division and apportionment of the benefits, the services and products therefrom, and may provide for any agency to effect the acquisitions and to carry on the operations, and shall provide in the powers and methods of procedure for the agency the method by which the agency may contract. The contracts with other public agencies or private corporations or persons may contain such other and further covenants and agreements as may be necessary or convenient to accomplish the purposes thereof. Particularly, but not exclusively, the agency may contract with the State of California for delivery of water under the State Water Resources Development System. The term "public agency," as used in this subdivision, shall be deemed to mean and include the United States of America or any department or agency thereof, the State of California or any department or agency thereof, a county, city, public corporation, the Metropolitan Water District of Southern California, or other public district of this state. The term "private corporation," as used in this subdivision, shall be deemed to mean and include any private corporation

organized under the laws of the United States of America or of this or any other state thereof. Contracts mentioned herein include those made with the United States, under the Federal Reclamation Act of June 17, 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore or hereafter enacted permitting cooperation. Any such contract with the United States of America or any department or agency thereof, or with any private corporation organized under the laws of the United States of America, by which the agency, or an improvement district thereof, incurs an indebtedness or liability exceeding in any year the income and revenue for such year shall not be executed without the assent of two-thirds of the qualified electors of the agency, or an improvement district thereof, voting at a special election to be held for that purpose, the election to be called and held, so far as practicable, in the same manner as bond elections for the agency. The exact form of the contract need not be available at the time of the special election, but the (1) purpose of the contract; (2) maximum amount of the indebtedness created thereby; (3) maximum term of repayment, and (4) maximum interest rate on the indebtedness shall be known and included in the proposition or measure submitted to the qualified electors of the agency, or an improvement district thereof, at the special election.

(p) To issue bonds under Section 28 for the purpose of providing money required to be paid by this agency to the State of California or any agency thereof under any contract which shall be made with it, or as all or part of the terms and conditions under which the corporate area of the agency may be annexed to and become a part of any metropolitan water district organized under the Metropolitan Water District Act. The amount of the bonds may include expenses of all proceedings for the authorization, issuance, and sale of the bonds.

(q) To disseminate information concerning the rights, properties, and activities of the agency.

(r) To construct, operate, and maintain works to develop hydroelectric energy, for use by the agency in the operation of its works or as a means of assisting in financing the construction, operation, and maintenance of its projects for the control, conservation, diversion, and transmission of water and to enter into contracts for the sale of the energy for a term not to exceed 50 years. The energy may be marketed only at wholesale to any public agency or private entity, or both, or the federal or state government.

(s) To contract, in connection with the construction and operation of the works of the agency, for the sale of the right to use falling water for electric energy purposes with any public agency or private entity engaged in the retail distribution of electric energy, for a term not to exceed 50 years.

(t) To develop, treat, distribute, and reclaim water, and to store and recover water from groundwater basins located outside the boundaries of the agency and, in exercising that power, to make and

enter into contracts allowing that storage and recovery.

SEC. 4. Section 15.1 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 5. Section 15.2 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is amended to read:

Sec. 15.2. In addition to the other powers set forth in this act, the agency may:

(a) Require reporting to the agency of all production, distribution, and reclamation of water within the agency in excess of 10 acre-feet per annum.

(b) Store and recover water from groundwater basins wholly or partially inside the boundaries of the agency, and in exercising that power, make and enter into contracts allowing that storage and recovery.

(c) Develop groundwater management plans within the agency which may include, without limitation, conservation, overdraft protection plans, and groundwater extraction charge plans, and implement any or all those plans subject to the rights of property owners and with the approval of the retail water purveyors and other major extractors of over 100 acre-feet of water per year.

(d) Contract with any and all purveyors or successors in interest to purveyors.

The financial or other interest of any appointed director in any contract between a purveyor or successor in interest to a purveyor and the agency, or the fact that an appointed director may have an ownership interest in or hold the position of a shareholder, director, officer, agent, or employee of that purveyor or successor in interest to a purveyor, shall not constitute a violation of Section 1090 of the Government Code, nor shall that interest or fact render the contract void or make it avoidable under Section 1092 of the Government Code, at the instance of any party; provided that either or both the fact of the interest and the fact of the relationship as shareholder, possessor of other ownership interest, director, officer, agent, or employee, shall be disclosed to the board of directors of the agency and noted in its official records, and thereafter the board shall authorize, approve, or ratify the contract by a vote of its membership sufficient for the purpose without counting the vote of that appointed director. The term "purveyor" for purposes of this subdivision means, in addition to the definition set forth in Section 4.8, any business entity which is a majority owner of a purveyor that is a water corporation regulated by the Public Utilities Commission.

This section shall cease to be operative if the board of directors adopts a resolution abolishing the offices of appointed directors pursuant to subdivision (c) of Section 5.2.

SEC. 6. Section 19 of the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session) is repealed.

SEC. 7. The Legislature finds and declares that the enactment of Sections 1 and 2 as special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique and special water management and conservation problems within the Big Bear City Community Services District which are not common to other community services districts. Enabling the district to collect the cost of the installation of water meters in installments on regular statements for water service or on tax statements will assist the district in promoting water conservation by requiring installation of water meters in currently unmetered water services. Upon installation of meters, the district will be able to bill currently unmetered customers on the basis of the quantity of water used. Likewise, authorizing the district to require installation of water conserving plumbing fixtures in newly constructed buildings will further assist the district in promoting water conservation, and achieve the district's goal of reducing annual water usage to the safe yield of its groundwater basins.

SEC. 8. Section 19 is added to the Castaic Lake Water Agency Law (Chapter 28 of the Statutes of 1962, First Extraordinary Session), to read:

Sec. 19. An action to determine the validity of any bonds, warrants, promissory notes, contracts, or other evidences of indebtedness of the kinds authorized by subdivision (h), (i), (o), (p), (r), or (s) of Section 15, may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1182

An act to add Section 718 to, and to add and repeal Section 2435.1 of, the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 718 is added to the Business and Professions Code, to read:

718. A physician and surgeon who is not licensed in this state but who is a commissioned officer on active duty in the medical corps of

any branch of the armed forces of the United States may engage in the practice of medicine as part of a residency, fellowship, or clinical training program if all the following conditions are met:

(a) The residency, fellowship, or clinical training program is conducted by a branch of the armed forces of the United States at a health facility on a federal reservation and limited in enrollment to military physicians on active duty in the medical corps of a branch of the armed forces of the United States.

(b) The residency, fellowship, or clinical training program, as part of its program, contracts with or affiliates with a similar program in or at a health facility not on a federal reservation to offer specific courses or training not available at the facility located on the federal reservation.

(c) The officers enrolled in the residency, fellowship, or clinical training program restrict their practice only to patients who are seen as part of their duties in the program.

(d) The compensation received by the officers enrolled in the residency, fellowship, or clinical training program is limited to their regular pay and allowances as commissioned officers.

(e) The officers enrolled in the training programs or portions of training programs not conducted on a federal reservation shall register with the Division of Licensing of the Board of Medical Quality Assurance on a form provided by the division.

SEC. 2. Section 2435.1 is added to the Business and Professions Code, to read:

2435.1. The board shall remit a refund to any physician and surgeon who, pursuant to subdivision (c) of Section 2435, as amended by Chapter 1176 of the Statutes of 1985, and prior to January 1, 1987, paid a full initial license fee and then a full biennial renewal fee. The amount of the refund shall be an amount equal to 50 percent of the initial license fee in effect on January 1, 1987.

This section shall apply only to those physicians and surgeons who were enrolled in an approved residency program and did not receive the benefit of a reduction either in their initial license fee or their first biennial renewal fee.

In addition to the purposes otherwise authorized by law, the moneys in the Contingent Fund of the Board of Medical Quality Assurance are continously appropriated for the payment of the refunds authorized by this section.

This section shall be operative until January 1, 1990, and on that date is repealed.

CHAPTER 1183

An act to amend Sections 70059.8, 74702, 74703, 74705, 74708, 74963, 74965, 74969, 74970, and 74971 of, and to repeal and add Article 9.7 (commencing with Section 73671) of, and Article 33 (commencing with Section 74840) of, Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 70059.8 of the Government Code is amended to read:

70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042, and 70045, the following provisions shall be applicable to the official court reporters in Solano County.

(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him or her by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(c) Each regular official court reporter shall receive a salary at the rate specified in grade 09-04200 of the salary grade adopted by Memorandum of Understanding effective January 1, 1988.

(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him or her to such higher initial step.

(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other

employees of the county respecting longevity, service credits, cost-of-living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date.

(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(g) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5 in the Solano County Superior Court.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

SEC. 2. Article 9.7 (commencing with Section 73671) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 3. Article 9.7 (commencing with Section 73671) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 9.7. Northern Solano Judicial District

73671. This article applies to the Northern Solano Judicial District in the County of Solano.

73672. There are four judges.

73672.1. The district consists of three divisions, as follows:

(a) The western division includes all of the territory within the Fairfield-Suisun Judicial District on March 7, 1973.

(b) The eastern division includes all of the territory within the Vacaville Judicial District on March 7, 1973.

(c) The northern division includes all of the territory within the Dixon Judicial District on January 1, 1976.

73672.2. As public convenience requires, the Board of Supervisors of the County of Solano may change the division boundaries by ordinance.

73672.6. Any traffic trial commissioner appointed pursuant to Article 10 (commencing with Section 72450) of Chapter 9 of this title to serve a municipal court district in the County of Solano shall receive a salary equal to 75 percent of the salary of a judge of a municipal court.

73673. There is one municipal court executive officer, who shall be appointed by the presiding judge with concurrence of a majority of the judges of the court, and shall hold office at the pleasure of a majority of the judges. The municipal court executive officer shall administer the nonjudicial activities of the court and serve as jury commissioner, exercising, insofar as applicable to the municipal court, the powers of a jury commissioner of a superior court.

The municipal court executive officer shall receive a salary at the salary grade specified in range 65-00400.

73674. The municipal court executive officer may appoint the following numbers of staff at the classifications and salary grades indicated:

	Number	Classification	Salary Grade
(a)	1	Assistant Municipal Court Executive Officer	70-00400
(b)	2	Clerical Operations Manager	75-00800
(c)	1	Administrative Assistant	09-03800
(d)	2	Data Entry Clerk (LT-P)	09-01000
(e)	4	Supervising Legal Procedures Clerk	08-01200
(f)	1	Fiscal Records Supervisor	08-01900
(g)	5	Courtroom Clerk	09-03400
(h)	3	Lead Legal Procedures Clerk	09-02800
(i)	1	Lead Fiscal Clerk	09-03300
(j)	3	Fiscal Clerk	09-02400
(k)	20	Legal Procedures Clerk	09-01800

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon them by law, each reporter shall render such assistance as may be required in any other court of the county to which the reporter may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall receive a salary at the rate specified in salary grade 09-04100.

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience

and qualifications as to entitle the appointee to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living or other general pay increases, retirement, vacation, sick leave, and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost-of-living or general pay inceases, retirement, vacation, sick leave, and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

73675. The Sheriff of Solano County shall serve and assist the municipal court without additional compensation. He may appoint four deputies to likewise serve and assist the court, who shall also receive no additional compensation for such service and assistance.

73676. Wherever a reference to a salary grade number is made in this article, the schedules found in the Memoranda of Understanding adopted by the Board of Supervisors of Solano County effective January 1, 1988, shall apply. Any salary grade resulting from an amendment of such schedule and listing shall remain effective only until January 1 of the second year following the calendar year in which such change is made.

73677. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to salary grades specified in Sections 73673 and 73674 and subdivision (b) of Section 73674.1.

Each person employed on January 1, 1968, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such

prior service shall be deemed service in the new position. However, such credit shall be given only when the presiding judge of the court determines that the officer or employee is entitled to receive it. Officers and employees shall be appointed at the first step for the salary grade assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is appointed, the judge may appoint that person at the second step of the salary grade assigned to that classification.

If the judges are unable to secure a qualified person to fulfill the position of the municipal court executive officer for that salary, the judges, with the concurrence of the board of supervisors, may establish a salary at a rate not to exceed step 5 of the salary grade of the municipal court executive officer that exists on the date of the appointment.

73678. (a) All increases in salary shall not be given as a matter of right but only when the presiding judge of the court determines that the officer or employee is properly entitled to receive it. Each person employed by the court shall have a merit increase eligibility date which shall be the first day of the pay period following completion of the number of full pay periods of service indicated on the following chart:

Salary Grade Step Number to Which Eligible	Number of Full Pay Periods of Service Completed Between Steps
2	13
3	13
4	26
5	39

(b) If any employee begins his or her employment on the first working day of a pay period, it shall be considered for purposes of this section that such employment began on the first calendar day of that pay period. The granting of any leave of absence without pay, other than military leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit increase eligibility date to be extended to the first of the pay period following completion of the leave of absence without pay.

However, an officer or employee who is promoted or reclassified to a position in a class with a higher salary grade shall receive the recruiting salary for the higher class if it is greater than his or her salary prior to promotion or reclassification, or such higher amount as would constitute at least a one-step increase (approximately 5 percent) on the salary grade over the salary received prior to the promotion or reclassification, not to exceed the top step of the new salary grade.

(c) The effective date of all promotions shall coincide with the first working date of a pay period. A new merit increase eligibility date shall be established, which shall be the first day of the pay period

following completion of the number of full pay periods of service which corresponds with the required period of service pursuant to subdivision (b).

73679. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 or any other provision of this article, in order to equalize the compensation of employees of the municipal court with compensation paid to county employees with commensurate duties and responsibilities, upon recommendation of the judges of the court and with the approval of the Board of Supervisors of the County of Solano, an officer or an employee of the court, whether appointed under the provisions of this article or under Article 4 (commencing with Section 72150) of Chapter 8 of Title 8, may be paid any compensation which is within the salary grades and increments set forth in this article in excess of or less than the maximum to which such officer or employee would otherwise be entitled under the salary grade established for his or her classification as set forth in Section 73676. Any such salary adjustment shall not extend longer than 60 days after the final adjournment of the next succeeding regular session of the Legislature after such salary adjustment.

73679.5. Employees of the court shall have the benefits and privileges, not including compensation, provided for employees of the County of Solano in that county's salary ordinance and other ordinances and rules applicable to county employees. Employees of the court, except the municipal court executive officer, shall be members of the County Civil Service System of the County of Solano to the extent that such membership is not contrary to the provisions of Section 5 of Article VI of the California Constitution, or any other provisions of state law.

SEC. 4. Section 74702 of the Government Code is amended to read:

74702. There shall be one clerk administrator who shall be the court executive officer and who shall be appointed by, and serve at the pleasure of, the judges of the municipal court. In addition to the duties imposed on this position by law, the judges of the municipal court may prescribe and delegate to the clerk administrator such administrative powers and duties as they deem necessary for the optimal administration of the court.

The salary of the clerk administrator shall be established by joint action of the Sonoma County Board of Supervisors and a majority of the judges of the municipal court at an amount equal to that paid county department heads with comparable experience and responsibility. The clerk administrator shall receive the same privileges with respect to sick leave, vacations, and fringe benefits as provided equivalent department heads employed by the county.

SEC. 5. Section 74703 of the Government Code is amended to read:

74703. The judges of the Sonoma County Municipal Court may appoint the traffic referee, who shall hold office at the pleasure of the

judges. The judges may also appoint part-time traffic referees, as needed, to assist in processing traffic caseloads during times of training, illness, or vacation of the traffic referee.

The traffic referee and part-time traffic referees shall have the powers and duties specified in Section 74201 and 74202, as well as the powers of a deputy clerk of the court, and shall perform such other duties as may be assigned by the court.

The traffic referee shall receive a salary equal to 50 percent of the annual salary of a municipal court judge. The traffic referee shall receive sick leave, vacation, and benefits identical to those provided Sonoma County administrative management employees.

Part-time traffic referees shall receive a salary identical to that of the traffic referee, except that such compensation shall be prorated as the number of hours actually served relates to a 40-hour workweek. Part-time traffic referees shall not receive sick leave, vacation, or benefits, other than those mandated by state or federal law.

SEC. 6. Section 74705 of the Government Code is amended to read:

74705. Certain classes of employment in the municipal courts are deemed to be equivalent in job responsibility and salary level to certain classes in the service of the County of Sonoma, or in some instances, to such classes plus or minus a specified percentage rate. Whenever the salary of those classes in the service of the County of Sonoma is adjusted by the board of supervisors, the salary of the comparable classes in the municipal courts shall be adjusted to a like extent plus or minus the percentage rate specified in this section, if applicable. Such adjustment shall become effective on the same date as the effective date of the action by the board of supervisors, as it applies to the classes in the service of the county, but such adjustment shall remain effective only until January 1 of the second year following the calendar year in which such adjustment is made.

Municipal court classification	County classification
Clerk administrator	Clerk administrator
Assistant clerk administrator	Assistant county clerk, plus 4.5%
Administrative assistant	Administrative assistant
Municipal court services supervisor	Municipal court services supervisor
Municipal court secretary	Municipal court secretary
Executive secretary	Executive secretary
Municipal court division supervisor	Deputy county clerk III
Municipal courtroom clerk	Superior court clerk
Municipal court clerk III	Deputy county clerk II
Account clerk II/I	Account clerk II/I
Municipal court clerk II	Clerk typist III

Municipal court clerk I	Clerk typist II
Telephone operator	Telephone operator
Clerk typist II/I	Clerk typist II/I

SEC. 7. Section 74708 of the Government Code is amended to read:

74708. In the municipal court in the district which coincides with all the territory in the County of Sonoma, there shall be the following personnel:

(a) There shall be six judges who may together appoint:

(1) One court commissioner, provided that at such time as the Board of Supervisors of Sonoma County finds, on or after January 1, 1989, that there are funds for an additional court commissioner and adopts a resolution to that effect, there shall be two court commissioners.

(2) One clerk administrator.

(3) One traffic referee, provided that this position will be eliminated upon the funding and appointment of a second court commissioner as provided in paragraph (1).

(4) Two municipal court secretaries.

(b) The clerk administrator may appoint:

(1) One assistant clerk administrator.

(2) One administrative assistant.

(3) One municipal court services supervisor.

(4) One executive secretary.

(5) Eight municipal court division supervisors.

(6) Nine municipal courtroom clerks.

(7) Sixteen municipal court clerks III.

(8) Five account clerks II/I.

(9) Twenty-two municipal court clerks II/I.

(10) One telephone operator.

(11) Five clerk typists II/I.

SEC. 8. Article 33 (commencing with Section 74840) of Chapter 10 of Title 8 of the Government Code is repealed.

SEC. 9. Article 33 (commencing with Section 74840) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 33. Vallejo-Benicia Judicial District

74840. This article applies to the Vallejo-Benicia Judicial District in the County of Solano.

74841. There are three judges.

74842. There is one municipal court executive officer, who shall be appointed by the presiding judge with concurrence of a majority of the judges of the court, and shall hold office at the pleasure of a majority of the judges. The municipal court executive officer shall administer the nonjudicial activities of the court and serve as jury commissioner, exercising insofar as applicable to the municipal court, the powers of a jury commissioner of a superior court.

The municipal court executive officer shall receive a salary at the rate specified in salary grade 65-00400.

74843. The municipal court executive officer may appoint the following numbers of staff at the classifications and salary grades indicated.

	Number	Classification	Salary Grade
(a)	1	Assistant Municipal Court Executive Officer	70-00400
(b)	1	Principal Court Clerk	08-01600
(c)	1	Administrative Assistant	09-03800
(d)	1	Supervising Courtroom Clerk	09-04000
(e)	3	Supervising Legal Procedures Clerk	08-01200
(f)	1	Fiscal Records Supervisor	08-01900
(g)	4	Courtroom Clerk	09-03400
(h)	2	Lead Legal Procedures Clerk	09-02800
(i)	1	Lead Fiscal Clerk	09-03300
(j)	3	Fiscal Clerk or Fiscal Clerk Trainee	09-02400
(k)	16	Legal Procedures Clerk or Clerk Trainee	09-01800

74844. There is one marshal who shall be elected by the voters of the judicial district and who shall receive a salary at the rate specified in salary grade 60-00200.

74845. The marshal may appoint the following numbers of staff at the classifications and salary grades indicated:

	Number	Classification	Salary Grade
(a)	1	Sergeant-Marshal	04-00100
(b)	1	Lead Legal Procedures Clerk	09-02800
(c)	6	Deputy Marshal or Deputy Marshal Trainee	03-00300
(d)	2	Legal Procedures Clerk	09-01800
(e)	1	Civil Process Server	07-00500

In addition, two additional deputy marshals may be appointed upon the determination of the necessity therefore by the judges with the concurrence of the board of supervisors.

74845.1. The marshal may appoint as many deputy marshal-keepers as may be required by law. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this section are not salaried employees of the judicial district for the purposes of obtaining civil service status or

any other benefits of this article.

74846. Whenever a reference to a salary grade number is made in this article, the schedules found in the Memoranda of Understanding adopted by the Board of Supervisors of the County of Solano and effective on January 1, 1988, shall apply. Any schedule and listing shall remain effective only until January 1 of the second year following the calendar year in which the change is made.

74847. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the ranges as set forth in the salary grades in Sections 74842, 74843, 74844, 74845, and 74851.

Each person employed in the office of the executive officer and the office of the marshal, including the executive officer and the marshal, on January 1, 1968, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position. However, such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it. The executive officer and other employees of the court shall be appointed at the first step for the grade assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the grade assigned to that classification. In the case of the appointment of the executive officer, the judges shall be authorized, if they deem it necessary, to appoint at a higher step, not to exceed the fifth step of the grade assigned to that classification as set forth in Section 74842, and, provided, further that if the judges are unable to secure a qualified person to fulfill the position of executive officer for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors and the county administrator may establish a salary at a rate not to exceed step 5 of the salary grade of the executive officer on the date of the appointment.

74848. (a) All increases in salary shall not be given as matter of right but only when the judges of the court determine that the officer or employee is properly entitled to receive it. Each person employed in the office of the executive officer and in the office of the marshal, including the executive officer but not including the marshal, shall have a merit increase eligibility date which shall be the first day of the pay period following completion of the number of full pay periods of services indicated on the following chart.

Salary Grade Step Number to Which Eligible	Number of Full Pay Periods of Service Completed Between Steps
2	13
3	13
4	26
5	39

(b) If an employee begins his or her employment on the first working day of a pay period, it shall be considered for purposes of this section that such employment began on the first calendar day of that pay period. The granting of any leave of absence without pay, other than military leave of absence, exceeding seven consecutive calendar days in a pay period shall cause the merit increase eligibility date to be extended to the first day of the pay period following completion of the leave of absence without pay.

However, an officer or employee who is promoted or reclassified to a position in a class with a higher salary shall receive the recruiting salary for the higher class if it is greater than his salary prior to promotion or reclassification, or such higher amount as would constitute a one-step increase (approximately 5 percent) on the salary grade over the salary received prior to the promotion or reclassification, not to exceed the top step on the new salary grade.

(c) The effective date of all promotions shall coincide with the first working day of a pay period. Upon the promotion or reclassification, a new merit increase eligibility date shall be established, which shall be the first day of the pay period following completion of the number of full pay periods service which corresponds with the required period of service pursuant to subdivision (b).

74849. Notwithstanding the provisions of Article 4 (commencing with Section 72150) of Chapter 8 of Title 8 or any other provision of this article, in order to equalize the compensation of employees of the municipal court with the compensation paid to county employees with commensurate duties and responsibilities, upon recommendation of the judges of the court and with the approval of the Board of Supervisors of the County of Solano, an officer or employee of the court, except the marshal, whether appointed under the provisions of this article or under Article 4 (commencing with Section 72150) of Chapter 8 of Title 8, may be paid any compensation which is within the ranges and increments set forth in this article in excess of or less than the maximum to which such officer or employee would otherwise be entitled under the salary grade established for his or her classification as set forth in Section 74846. Any such salary adjustment shall not extend longer than 60 days after the final adjournment of the next succeeding regular session of the Legislature after such salary adjustment.

74850. Employees of the office of the executive officer and marshal, including the executive officer and the marshal, shall have the benefits and privileges, not including compensation, provided for employees of the County of Solano in that county's salary ordinance and other ordinances and rules applicable to county employees.

Employees of the office of the executive officer and marshal, except the executive officer and the marshal, shall be members of the County Civil Service System of the County of Solano to the extent that such membership is not contrary to the provisions of Section 5

of Article VI of the California Constitution, or any other provisions of state law.

74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and peform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall receive a salary at the rate specified in grade 09-04100.

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him or her to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost-of-living or other general pay increases, retirement, vacation, sick leave, and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost-of-living or general pay increases, retirement, vacation, sick leave, and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1990, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily

transcript shall pay a fee per day equal to the per diem rate for official reports pro tempore for the services of the second reporter for the first and each successive day.

SEC. 10. Section 74963 of the Government Code is amended to read:

74963. There shall be one municipal court clerk administrator of the court (subject to the provisions of Section 74968) who shall be appointed by the presiding judge of the municipal court and who shall hold office at the pleasure of the presiding judge. The clerk shall receive a monthly salary at a rate specified in range 29.52.

SEC. 11. Section 74965 of the Government Code is amended to read:

74965. The clerk (subject to the provisions of Section 74968) with the approval of the presiding judge may appoint:

(a) Four municipal court clerks III, each of whom shall receive a monthly salary at a rate specified in range 13.71.

(b) Twenty-three municipal court clerks II, who shall receive a monthly salary at a rate specified in range 11.88, or twenty-three municipal court clerks I, each of whom shall receive a monthly salary at a rate specified in range 10.06, or twenty-three typist-clerks II, each of whom shall receive a monthly salary at a rate specified in range 9.73, or twenty-three typist-clerk I, each of whom shall receive a monthly salary at a rate specified in range 8.53. The combined total of positions in the municipal court clerk II, municipal court clerk I, typist-clerk II, and typist-clerk I classifications shall not exceed twenty-three positions, of which one shall be part-time not to exceed 20 hours per week.

(c) Two account clerks III, who shall receive a monthly salary at a rate specified in range 11.66.

(d) Two account clerks II, who shall receive a monthly salary at a rate specified in range 10.74, or two account clerks I, each of whom shall receive a monthly salary at a rate specified in range 9.77. The combined total of positions in the account clerk II and account clerk I classifications shall not exceed two positions.

(e) One administrative clerk III, who shall receive a monthly salary at a rate specified in range 13.00.

SEC. 12. Section 74969 of the Government Code is amended to read:

74969. Whenever reference to a numbered salary range is made in any section of this article, the schedule of monthly salaries found in the salary resolution of the County of Yolo in effect on January 1, 1988, shall apply.

SEC. 13. Section 74970 of the Government Code is amended to read:

74970. All officers and employees of the Yolo County Municipal Court shall be entitled to the same provisions with respect to retirement, vacations, and other benefits allowed to employees of the county, and be subject to the personnel regulations, memoranda of understanding, management benefit package, and the affirmative

action plan of the County of Yolo as they exist on January 1, 1988.

SEC. 14. Section 74971 of the Government Code is amended to read:

74971. The positions enumerated in Sections 74963 to 74966, inclusive, are deemed to be comparable in job and salary level to certain positions in the service of Yolo County. The following table sets forth the court classifications with the comparable county classifications shown opposite thereto:

Clerk classification	County classification
Municipal Court Clerk Administrator	Municipal Court Clerk Administrator
Municipal Court Clerk III	Municipal Court Clerk III
Municipal Court Clerk II	Municipal Court Clerk II
Municipal Court Clerk I	Municipal Court Clerk I
Typist-Clerk II	Typist-Clerk II
Typist-Clerk I	Typist-Clerk I
Account Clerk III	Account Clerk III
Account Clerk II	Account Clerk II
Account Clerk I	Account Clerk I
Administrative Clerk III	Administrative Clerk III

In the event that any classification, the number of positions prescribed for any classification, or the salary, benefits, personnel regulations, memorandum of understanding or affirmative action plan for any classification which is shown above is modified by the board of supervisors, a commensurate modification shall be made for the comparable court classifications. Any adjustment made pursuant to this section shall be effective the same date as the effective date of the action applicable to the respective and comparable county classifications, but shall remain in effect only until January 1 of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

SEC. 15. The Legislature hereby finds and declares that the amendments to Section 74702 of the Government Code contained in Section 4 of this act and that portion of the amendments to Section 74705 of the Government Code contained in Section 6 of this act are declaratory of existing law because prior amendments to those sections made by Chapter 875 of the Statutes of 1986 relating to the status and salary of the clerk administrator were enacted due to error and did not reflect the intent of the Legislature.

CHAPTER 1184

An act to amend, repeal, and add Section 8516 of the Business and Professions Code, relating to structural pest control.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares that ownership of real property is, and will continue to be, a goal of the people of this state.

The Legislature reaffirms that the subject of real property ownership is of statewide importance to the health, safety, and welfare of the people of this state.

The Legislature further finds and declares that practices and requirements adversely affecting the ability of buyers and sellers to understand structural pest control inspection reports are contrary to public policy.

The Legislature further finds and declares that improved understanding of those reports will assist buyers and sellers in performing their contractual obligations.

SEC. 1.5. This act shall be known and cited as the Montoya Structural Pest Control Act of 1988.

SEC. 2. Section 8516 of the Business and Professions Code is amended to read:

8516. (a) This section shall apply only to wood-destroying pests or organisms.

(b) No registered company shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood-destroying pests or organisms until an inspection has been made. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports

and completion notices as provided in subdivision (e).

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions exist which would ordinarily subject such parts to attack by wood-destroying pests or organisms.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces or other parts subject to attack by wood-destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions and insufficient ventilation are to be reported.

(8) Indication or description of any areas normally subject to damage which are inaccessible or for other reason not inspected, with suggestion for further inspection if practicable. If, after the report has been made in compliance with the provisions of this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

(9) Recommendations for corrective measures.

(10) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(11) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate shall be given with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) The report and any contract entered into shall also state

specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(d) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs 1 to 9, inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood-destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(e) Whenever a report is filed pursuant to subdivision (b), the board shall forthwith send to any person or firm designated under paragraph 3 of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested and upon payment of an appropriate search fee.

(f) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

This section shall be operative until July 1, 1989, and on that date is repealed.

SEC. 3. Section 8516 is added to the Business and Professions Code, to read:

8516. (a) This section shall apply only to wood-destroying pests or organisms.

(b) No registered company or licensee shall commence work on a contract, or sign, issue or deliver any documents expressing an opinion or statement relating to the absence or presence of wood-destroying pests or organisms until an inspection has been made. The registered company shall retain for three years all field reports from which a verbal or written estimate of or solutions for work are made. A written inspection report conforming to this section and on a form prescribed by the board shall be prepared and delivered to the person requesting the inspection or to the person's designated agent. A copy of each report shall be filed with the board at the time the report is delivered or not later than five working days after the date the inspection is made. The report shall be delivered

to the person requesting the inspection, or to the person's designated agent, before work is commenced. The following shall be set forth in the report:

(1) The date of the inspection and the name of the licensee making the inspection.

(2) The name and address of the person or firm ordering the report.

(3) The name and address of any person who is a party in interest to whom the board is to send certified copies of inspection reports and completion notices as provided in subdivision (h).

(4) The address or location of the property.

(5) A general description of the building or premises inspected.

(6) A foundation diagram or sketch of the structure or structures or portions of the structure or structures inspected, indicating thereon the approximate location of any infested or infected areas evident, and the parts of the structure where conditions which would ordinarily subject those parts to attack by wood-destroying pests or organisms exist.

(7) Information regarding the substructure, foundation walls and footings, porches, patios and steps, air vents, abutments, attic spaces, or other parts subject to attack by wood-destroying pests or organisms. Conditions usually deemed likely to lead to infestation or infection, such as earth contacts, excessive cellulose debris, faulty grade levels, excessive moisture conditions and insufficient ventilation are to be reported.

(8) Indication or description of any areas normally subject to damage which are inaccessible or for other reason not inspected, with suggestion for further inspection if practicable. If, after the report has been made in compliance with this section, authority is given later to open inaccessible areas, a supplementary report on conditions in these areas shall be made.

(9) Recommendations for corrective measures.

(10) Information regarding the pesticide or pesticides to be used for their control as set forth in subdivision (a) of Section 8538.

(11) The inspection report shall clearly disclose that if requested by the person ordering the original report, a reinspection of the structure will be performed if an estimate or bid for making repairs was given with the original inspection report, or thereafter.

An estimate or bid for repairs shall be given separately allocating the costs to perform each and every recommendation for corrective measures as specified in subdivision (c) with the original inspection report if the person who ordered the original inspection report so requests, and if the registered company is regularly in the business of performing corrective measures.

If no estimate or bid was given with the original inspection report, or thereafter, then the registered company shall not be required to perform a reinspection.

A reinspection shall be an inspection of those items previously listed on an original report to determine if the recommendations

have been completed. Each reinspection shall be reported on an original inspection report form and shall be labeled "Reinspection" in capital letters by rubber stamp or typewritten. Each reinspection shall also identify the original report by date and stamp numbers.

After four months from an original inspection, all inspections shall be original inspections and not reinspections.

Any reinspection shall be performed for not more than the price of the registered company's original inspection price and shall be completed within 10 working days after a reinspection has been ordered.

(c) At the time a report is ordered, the registered company or licensee shall inform the person or entity ordering the report, that a separated report is available pursuant to this subdivision. If a separated report is requested at the time the inspection report is ordered, the registered company or licensee shall separately identify on the report each recommendation for corrective measures as follows:

(1) The infestation or infection which is evident.

(2) The conditions that are present which are deemed likely to lead to infestation or infection.

If a registered company or licensee fails to inform as required by this subdivision and a dispute arises, or if any other dispute arises as to whether this subdivision has been complied with, a separate report shall be provided within 24 hours of the request but, in no event, later than the next business day, and at no additional cost.

(d) When a corrective condition is identified, either as paragraph (1) or (2) of subdivision (c), and the responsible party, as negotiated between the buyer and the seller, chooses not to correct those conditions, the registered company or licensee shall not be liable for damages resulting from a failure to correct those conditions or subject to any disciplinary action by the board. Nothing in this subdivision, however, shall relieve a registered company or a licensee of any liability resulting from negligence, fraud, dishonest dealing, other violations pursuant to this chapter, or contractual obligations between the registered company or licensee and the responsible parties.

(e) The inspection report form prescribed by the board shall separately identify paragraphs (1) and (2) of subdivision (c). Additionally, the form shall explain paragraphs (1) and (2) of subdivision (c) conditions and the difference between those conditions. In no event, however, shall conditions described pursuant to paragraph (2) of subdivision (c) be characterized as actual "defects" or as actual "active" infestations or infections or in need of correction as a precondition to issuing a certification pursuant to Section 8519.

(f) The report and any contract entered into shall also state specifically when any guarantee for the work is made, and if so, the specific terms of the guarantee and the period of time for which the guarantee shall be in effect.

(g) Control service is defined as the regular reinspection of a property after a report has been made in compliance with this section and such corrections as have been agreed upon have been completed. Under a control service agreement a registered company shall refer to the original report and contract in a manner as to identify them clearly, and the report shall be assumed to be a true report of conditions as originally issued, except it may be modified after a control service inspection. A registered company is not required to issue a report as outlined in paragraphs (1) to (9), inclusive, of subdivision (b) after each control service inspection. If after control service inspection, no modification of the original report is made in writing, then it will be assumed that conditions are as originally reported. A control service contract shall state specifically the particular wood-destroying pests or organisms and the portions of the buildings or structures covered by the contract.

(h) Whenever a report is filed pursuant to subdivision (b), the board shall forthwith send to any person or firm designated under paragraph (3) of that subdivision a certified copy of all inspection reports and completion notices made on the property and filed with the board during the preceding two years, if so requested and upon payment of an appropriate search fee.

(i) All work recommended by a registered company, where an estimate or bid for making repairs was given with the original inspection report, or thereafter, shall be recorded on this report or a separate work agreement and shall specify a price for each recommendation. This information shall be provided to the person requesting the inspection, and shall be retained by the registered company with the inspection report copy for two years.

This section shall become operative on July 1, 1989.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1185

An act to amend Section 667.6 of the Penal Code, relating to sentencing.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 667.6 of the Penal Code is amended to read:

667.6. (a) Any person who is found guilty of violating subdivision

(2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions provided that no enhancement shall be imposed under this subdivision for any conviction occurring prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. In addition to the five-year enhancement imposed under this subdivision, the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under these provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837.

(b) Any person convicted of an offense specified in subdivision (a) who has served two or more prior prison terms as defined in Section 667.5 for any offense specified in subdivision (a), shall receive a 10-year enhancement for each of those prior terms provided that no additional enhancement shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. In addition to the 10-year enhancement imposed under this subdivision, the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for any person sentenced under this subdivision. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of Section 220, other than an assault with intent to commit mayhem, provided the person has been convicted previously of violating Section 220 for an offense other than an assault with intent to commit mayhem, subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person whether or not the crimes were committed during a single transaction. If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any

determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(d) A full, separate, and consecutive term shall be served for each violation of Section 220, other than an assault with intent to commit mayhem, provided the person has been convicted previously of violating Section 220 for an offense other than an assault with intent to commit mayhem, subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person if the crimes involve separate victims or involve the same victim on separate occasions.

In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned his or her opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

The term shall be served consecutively to any other term of imprisonment, and shall commence from the time the person would otherwise have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(e) If the court orders a fine to be imposed pursuant to subdivision (a) or (b), the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

CHAPTER 1186

An act to amend Section 338 of, and to add Section 338.1 to, the Code of Civil Procedure, to add Section 25360.4 to the Health and Safety Code, and to amend Section 803 of the Penal Code, relating to hazardous substances.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 338 of the Code of Civil Procedure is amended to read:

338. Within three years:

(a) An action upon a liability created by statute, other than a penalty or forfeiture.

(b) An action for trespass upon or injury to real property.

(c) An action for taking, detaining, or injuring any goods or chattels, including actions for the specific recovery of personal property. The cause of action in the case of theft, as defined in Section 484 of the Penal Code, of any art or artifact is not deemed to have accrued until the discovery of the whereabouts of the art or artifact by the aggrieved party, his or her agent, or the law enforcement agency which originally investigated the theft.

(d) An action for relief on the ground of fraud or mistake. The cause of action in that case is not to be deemed to have accrued until the discovery, by the aggrieved party, of the facts constituting the fraud or mistake.

(e) An action upon a bond of a public official except any cause of action based on fraud or embezzlement is not to be deemed to have accrued until the discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action upon the bond.

(f) An action against a notary public on his or her bond or in his or her official capacity except that any cause of action based on malfeasance or misfeasance is not deemed to have accrued until discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action; provided, that any action based on malfeasance or misfeasance shall be commenced within one year from discovery, by the aggrieved party or his or her agent, of the facts constituting the cause of action or within three years from the performance of the notarial act giving rise to the action, whichever is later; and provided further, that any action against a notary public on his or her bond or in his or her official capacity shall be commenced within six years.

(g) An action for slander of title to real property.

(h) An action commenced under Section 17536 of the Business and Professions Code. The cause of action in that case shall not be deemed to have accrued until the discovery by the aggrieved party, the Attorney General, the district attorney, the county counsel, the city prosecutor, or the city attorney of the facts constituting grounds for commencing such an action.

(i) An action commenced under the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code). The cause of action in that case shall not be deemed to have accrued until the discovery by the State Water

Resources Control Board or a regional water quality control board of the facts constituting grounds for commencing actions under their jurisdiction.

(j) An action to recover for physical damage to private property under Section 19 of Article I of the California Constitution.

SEC. 2. Section 338.1 is added to the Code of Civil Procedure, to read:

338.1. An action for civil penalties or punitive damages authorized under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code shall be commenced within five years after the discovery by the agency bringing the action of the facts constituting the grounds for commencing the action.

SEC. 3. Section 25360.4 is added to the Health and Safety Code, to read:

25360.4. (a) An action under Section 25360 for the recovery of the costs of removal or remedial action incurred by the department from the state account, the Hazardous Substance Cleanup Fund, or any other source authorized by law, or for the recovery of administrative costs incurred by the department in connection with any removal or remedial action performed by the department or by any responsible party, shall be commenced within three years after completion of the removal or remedial action has been certified by the department.

(b) An action under subdivision (c) of Section 25352 for costs incurred by the department for the purposes specified in subdivision (a) or (b) of Section 25352 shall be commenced within three years after certification by the department of the completion of the activities authorized under subdivisions (a) and (b) of Section 25352.

(c) In any action described in subdivision (a) or (b) for recovery of the costs of a removal action, a remedial action, administrative costs, or damages, where the court has entered a judgment for these past costs or damages, the court shall also enter an order reserving jurisdiction over the case and the court shall have continuing jurisdiction to determine any future liability and the amount. The department may immediately enforce the judgment for past costs and damages. The department may apply for a court judgment as to future costs and damages that have been incurred at any time during the removal and remedial actions or during the performance of the activities authorized by Section 25352, but the application shall be made not later than three years after the certification of completion of the actions or activities.

(d) An action may be commenced under Section 25360 or subdivision (c) of Section 25352 at any time prior to expiration of the three-year limitation period provided for by this section.

SEC. 4. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(7) A violation of Section 22430 of the Business and Professions Code.

(8) A violation of Section 10690 of the Health and Safety Code.

(9) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386.

SEC. 5. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is

misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(7) A violation of Section 22430 of the Business and Professions Code.

(8) A violation of Section 10690 of the Health and Safety Code.

(9) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or under Section 386.

(f) The time within which a criminal prosecution may be commenced shall be tolled during the time a defendant is released pursuant to a precomplaint diversion program under Chapter 2.68 (commencing with Section 1000.40) of Title 6.

SEC. 6. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 of this code or 556 of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or under Section 386.

SEC. 7. Section 803 of the Penal Code is amended to read:

803. (a) Except as provided in this section, a limitation of time prescribed in this chapter is not tolled or extended for any reason.

(b) No time during which prosecution of the same person for the same conduct is pending in a court of this state is a part of a limitation of time prescribed in this chapter.

(c) A limitation of time prescribed in this chapter does not commence to run until discovery of an offense described in this subdivision. This subdivision applies to an offense punishable by imprisonment in the state prison, a material element of which is fraud or breach of a fiduciary obligation or the basis of which is misconduct in office by a public officer, employee, or appointee, including, but not limited to, the following offenses:

(1) Grand theft of any type, forgery, falsification of public records, or acceptance of a bribe by a public official or a public employee.

(2) A violation of Section 72, 118, 118a, 132, or 134.

(3) A violation of Section 25540, of any type, or 25541 of the Corporations Code.

(4) A violation of Section 1090 or 27443 of the Government Code.

(5) Felony welfare fraud or Medi-Cal fraud in violation of Section 11483 or 14107 of the Welfare and Institutions Code.

(6) Felony insurance fraud in violation of Section 548 of this code or 556 of the Insurance Code.

(7) A violation of Section 580, 581, 582, 583, or 584 of the Business and Professions Code.

(8) A violation of Section 22430 of the Business and Professions Code.

(9) A violation of Section 10690 of the Health and Safety Code.

(10) A violation of Section 529a.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100), Chapter 6.7 (commencing with Section 25280), or Chapter 6.8 (commencing with Section 25300) of Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of the Health and Safety Code, or under Section 386.

(f) The time within which a criminal prosecution may be commenced shall be tolled during the time a defendant is released pursuant to a precomplaint diversion program under Chapter 2.68 (commencing with Section 1000.40) of Title 6.

SEC. 8. (a) Section 5 of this bill incorporates amendments to Section 803 of the Penal Code proposed by both this bill and AB 4273. It shall only become operative if (1) both bills are enacted and become effective January 1, 1989, (2) each bill amends Section 803 of the Penal Code, and (3) SB 2344 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 4273, in which case Sections 4, 6, and 7 of this bill shall not become operative.

(b) Section 6 of this bill incorporates amendments to Section 803 of the Penal Code proposed by both this bill and SB 2344. It shall only become operative if (1) both bills are enacted and become effective January 1, 1989, (2) each bill amends Section 803 of the Penal Code, (3) AB 4273 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 2344 in which case Sections 4, 5, and 7 of this bill shall not become operative.

(c) Section 7 of this bill incorporates amendments to Section 803 of the Penal Code proposed by this bill, AB 4273, and SB 2344. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1989, (2) all three bills amend Section 803 of the Penal Code, and (3) this bill is enacted after AB 4273 and SB 2344 in which case Sections 4, 5, and 6 of this bill shall not become operative.

CHAPTER 1187

An act to amend Section 65952 of the Government Code, relating to development projects.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 65952 of the Government Code is amended to read:

65952. (a) Any public agency which is a responsible agency for a development project that has been approved by the lead agency shall approve or disapprove the development project within whichever of the following periods of time is longer:

(1) Within 180 days from the date on which the lead agency has approved the project.

(2) Within 180 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

(b) At the time a decision by a lead agency to disapprove a development project becomes final, applications for that project which are filed with responsible agencies shall be deemed withdrawn.

CHAPTER 1188

An act to add Section 1365.7 to the Civil Code, relating to common interest developments.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1365.7 is added to the Civil Code, to read:

1365.7. (a) Any person who suffers bodily injury, including, but not limited to, emotional distress, or wrongful death as a result of the tortious act or omission of a volunteer officer or volunteer director of an association managing a common interest development which is exclusively residential, as defined in subdivision (a) of Section 1351, shall not recover damages from a volunteer officer or volunteer director if all of the following criteria are met:

(1) The act or omission was performed within the scope of the officer's or director's association duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not willful, wanton, or grossly

negligent.

(4) The association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance in either of the following amounts:

(A) At least five hundred thousand dollars ($500,000) if the common interest development consists of 100 or fewer separate interests.

(B) At least one million dollars ($1,000,000) if the common interest development consists of more than 100 separate interests.

(b) The payment of actual expenses incurred by a director or officer in the execution of the duties of that position does not affect the director's or officer's status as a volunteer within the meaning of this section.

(c) An officer or director who at the time of the act or omission received either direct or indirect compensation as an employee from the declarant, as defined in subdivision (g) of Section 1351, or from a financial institution that purchased a separate interest, as defined in subdivision (*l*) of Section 1351, at a judicial or nonjudicial foreclosure of a mortgage or deed of trust on real property, is not a volunteer for the purposes of this section.

(d) Nothing in this section shall be construed to limit the liability of the association for its negligent act or omission or for any negligent act or omission of an officer or director of the association.

(e) This section shall only apply to a volunteer officer or director who resides in the common interest development either as a tenant or as an owner of no more than two separate interests in that development.

CHAPTER 1189

An act to add Section 13143.4 to the Health and Safety Code, relating to fire protection.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 13143.4 is added to the Health and Safety Code, to read:

13143.4. The State Fire Marshal shall adopt regulations to authorize National Fire Protection Association 704 Standard System Diamonds, as provided in the 1985 Edition of the National Fire Protection Association 704, Standard System for Identification of Fire Hazards of Materials, be displayed at entrances to buildings and other locations where hazardous materials are stored.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the

only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1190

An act to add Section 2937 to the Civil Code, relating to mortgages and deeds of trust.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 2937 is added to the Civil Code, to read:

2937. (a) The Legislature hereby finds and declares that borrowers have the right to know when a person holding a promissory note, bond, or other instrument secured by a mortgage or deed of trust on real property transfers the servicing of the indebtedness. The Legislature also finds that notification to the borrower of the transfer may protect the borrower from fraudulent business practices and may ensure timely payments.

It is the intent of the Legislature in enacting this section to mandate that persons transferring the servicing of the indebtedness on notes, bonds, or other instruments secured by a mortgage or deed of trust on real property, notify the borrower of the transfer.

(b) Any person transferring the servicing of indebtedness on a note, bond, or other instrument secured by a mortgage or deed of trust on single family residential real property to a different servicing agent and any person assuming from another responsibility for servicing those instruments shall give written notice to the borrower before the borrower becomes obligated to make payments to a new servicing agent.

(c) The notices shall be sent by first–class mail, postage prepaid, to the borrower's address designated for loan payment billings, and shall contain each of the following:

(1) The name and address of the person to which the transfer of the servicing of the indebtedness is made.

(2) The date the transfer was or will be completed.

(3) The address where all future payments are to be made and the due date of the next payment.

(d) A lender shall notify a borrower at the time a note, bond, or other instrument secured by a mortgage or deed of trust on single family residential real property is executed, that in the event of a subsequent transfer of the servicing of the indebtedness, the existing sevicing agent and new servicing agent shall give notice of this fact to the borrower prior to the creation of any duty on the part of the

borrower to the new servicing agent. Evidence of the giving of notice shall be in the form of a Proof of Mailing Certification executed by the individual actually responsible for mailing the requisite notice mandated herein.

(e) The borrower shall not be liable to the holder of the note, bond, or other instrument or to any servicing agent for payments made to the previous servicing agent or for late charges if these payments were made prior to the borrower receiving written notice of the transfer as provided by subdivision (c) and the payments were otherwise on time.

CHAPTER 1191

An act to amend Section 12020 of the Penal Code, relating to weapons.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any plastic firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his or her person any explosive substance, other than fixed ammunition or who carries concealed upon his or her person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a

nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within that year the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric

shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section, a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(6) As used in this section, "metal knuckles" means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer's hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(7) As used in this section, "ballistic knife" means a device that propels a knife-like blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(8) As used in this section, "camouflaging firearm container" means a container which meets all of the following:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

"Camouflaging firearm container" does not include any camouflaging covering used while engaged in lawful hunting or

while going to or returning from a lawful hunting expedition.

(9) As used in this section, "plastic firearm" means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive and which meets one of the following requirements:

(A) It contains less than 3.7 ounces of electromagnetically detectable metal.

(B) One of its major components, which includes the barrel, slide, cylinder, frame, or receiver, does not generate an image that accurately depicts the shape of the component when subjected to inspection by X-ray machines commonly used at airports. The purpose of this requirement is satisfied if the required image results from the infusion into the component of barium sulfate or other compound.

(10) All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting a plastic firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1192

An act to add Section 1799.105 to the Health and Safety Code, relating to poison control centers.

[Approved by Governor September 21, 1988 Filed with Secretary of State September 22, 1988]

The people of the State of California do enact as follows:

SECTION 1. Section 1799.105 is added to the Health and Safety Code, to read:

1799.105. (a) A poison control center which (1) meets the minimum standards for designation and operation established by the authority pursuant to Section 1798.180, (2) has been designated a regional poison control center by the authority, and (3) provides

information and advice for no charge on the management of exposures to poisonous or toxic substances, shall be immune from liability in civil damages with respect to the emergency provision of that information or advice, for acts or omissions by its medical director, poison information specialist, or poison information provider as provided in subdivisions (b) and (c).

(b) Any poison information specialist or poison information provider who provides emergency information and advice on the management of exposures to poisonous or toxic substances, through, and in accordance with, protocols approved by the medical director of a poison control center specified in subdivision (a), shall only be liable in civil damages, with respect to the emergency provision of that information or advice, for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. This subdivision shall not be construed to immunize the negligent adoption of a protocol.

(c) The medical director of a poison control center specified in subdivision (a) who provides emergency information and advice on the management of exposures to poisonous or toxic substances, where the exposure is not covered by an approved protocol, shall be liable only in civil damages, with respect to the emergency provision of that information or advice, for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. This subdivision shall neither be construed to immunize the negligent failure to adopt adequate approved protocols nor to confer liability upon the medical director for failing to develop or approve a protocol when the development of a protocol for a specific situation is not practical or the situation could not have been reasonably foreseen.

CHAPTER 1193

An act to amend Sections 18500, 20500, and 22790.2 of the Government Code, relating to public employees.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 18500 of the Government Code is amended to read:

18500. It is the purpose of this part:

(a) To facilitate the operation of Article VII of the Constitution.

(b) To promote and increase economy and efficiency in the state service.

(c) To provide a comprehensive personnel system for the state civil service, in which:

(1) Positions involving comparable duties and responsibilities are similarly classified and compensated.

(2) Appointments are based upon merit and fitness ascertained through practical and competitive examination.

(3) State civil service employment is made a career by providing for security of tenure and the advancement of employees within the service insofar as consistent with the best interests of the state.

(4) The rights and interests of the state civil service employee are given consideration insofar as consistent with the best interests of the state.

(5) Applicants and employees are treated in an equitable manner without regard to political affiliation, race, color, sex, religious creed, national origin, ancestry, marital status, age, sexual orientation, disability, political or religious opinions or nonjob-related factors.

(6) Tenure of civil service employment is subject to good behavior, efficiency, the necessity of the performance of the work, and the appropriation of sufficient funds.

SEC. 2. Section 20500 of the Government Code, as amended by Chapter 331 of the Statutes of 1988, is amended to read:

20500. Notwithstanding any other provision of this part, a contracting agency and its employees may agree, in writing, to share the costs of any optional benefit which is inapplicable to a contracting agency unless and until the agency elects to be subject to the benefit. The agreement shall specify the exact percentage of member compensation that shall be paid toward the current service cost of the benefits by members. The member contributions shall be normal contributions over and above normal contributions otherwise required by this part and shall be treated as normal contributions for all purposes of this part. The contributions shall be uniform with respect to all members within each of the following classifications: local miscellaneous members, local policemen, local firefighters, county peace officers, and all local safety members other than local policemen, local firefighters, and county peace officers. The balance of any costs shall be paid by the contracting agency and shall be credited to the employer's account.

This section shall not apply to any optional benefit which is elected by a contracting agency prior to the effective date of this section.

This section shall not apply to any contracting agency nor to the employees of any contracting agency unless and until the agency elects to be subject to this section by amendment to its contract made in the manner prescribed for approval of contracts or, in the case of contracts made after this section takes effect, by express provision in the contract making the contracting agency subject to this section. Contributions provided by this section shall not be withheld from member compensation or otherwise collected until the contract amendment becomes effective.

For the purposes of this section, all contributions, liabilities, actuarial interest rates, and other valuation factors shall be determined on the basis of actuarial assumptions and methods which,

in the aggregate, are reasonable and which, in combination, offer the actuary's best estimate of anticipated experience under the system.

The additional employer contributions required under this section shall be computed as a level percentage of member compensation. The additional contribution rate required at the time this section is added to a contract shall not be less than the sum of (1) the actuarial normal cost, plus (2) the additional contribution required to amortize the increase in accrued liability attributable to benefits elected under this section over a period of not more than 30 years from the date this section becomes effective in the public agency's contract.

Nothing in this section shall preclude a contracting agency and its employees from independently agreeing in a memorandum of understanding to share the costs of any optional benefit or when initially entering into a contract, any benefit, in a manner inconsistent with this section. However, any such an agreement in a memorandum of understanding which is inconsistent with this section shall not be part of the contract between this system and the contracting agency.

SEC. 3. Section 22790.2 of the Government Code is amended to read:

22790.2. Notwithstanding Section 10270.5 of the Insurance Code, an employee who is presently a member of a board-approved health benefit plan sponsored by an employee organization which is the exclusive representative pursuant to the Ralph C. Dills Act and who terminates his or her membership in an employee organization shall become ineligible for membership in the plan because of his or her termination of membership in the employee organization; however, the employee may continue enrollment in the employee organization health benefit plan until the time that the employee is properly notified by the employee organization of the loss of eligibility. Upon notification of the loss of eligibility, the employee within 60 days may change his or her enrollment to another approved health benefit plan for which he or she is eligible.

CHAPTER 1194

An act to amend Sections 11343, 11344.4, and 11356 of, and to add Section 11342.02 to, the Government Code, to amend Sections 18905.5, 18906, 18907, 18910, 18911, 18913, 18917.3, 18921, 18926, 18927, 18928, 18930, 18931, 18931.5, 18932, 18933, 18934.5, 18935, 18936, 18937, 18938, 18939, 18940, 18941, 18942, 18942.1, 18943, 18944, and 18944.7 of, and to add Sections 18902, 18929, and 18942.2 to, the Health and Safety Code, relating to regulations.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11342.02 is added to the Government Code, to read:

11342.02. (a) Whenever the term "California Administrative Code" appears in law, official legal paper, or legal publication, it means the "California Code of Regulations."

(b) Whenever the term "California Administrative Notice Register" appears in any law, official legal paper, or legal publication, it means the "California Regulatory Notice Register."

(c) Whenever the term "California Administrative Code Supplement" appears in any law, official legal paper, or legal publication, it means the "California Regulatory Code Supplement."

SEC. 1.2. Section 11343 of the Government Code is amended to read:

11343. Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one which:

(1) Establishes or fixes rates, prices, or tariffs.

(2) Relates to the use of public works, including streets and highways, when the effect of the regulation is indicated to the public by means of signs or signals or when the order determines uniform standards and specifications for official traffic control devices pursuant to Section 21400 of the Vehicle Code.

(3) Is directed to a specifically named person or to a group of persons and does not apply generally throughout the state.

(4) Is a building standard, as defined in Section 18909 of the Health and Safety Code.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(d) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(e) Transmit to the State Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard or administrative regulation that applies directly to the implementation or enforcement of building standards, together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5

(commencing with Section 18901) of Division 13 of the Health and Safety Code).

(f) Whenever a certification is required by this section, it shall be made by the head of the state agency or his or her designee which is adopting, amending, or repealing the regulation and the certification and delegation shall be in writing.

SEC. 1.3. Section 11344.4 of the Government Code is amended to read:

11344.4. (a) The California Code of Regulations, the California Regulatory Code Supplement, and the California Regulatory Notice Register shall be sold at prices which will reimburse the state for all costs incurred for printing, publication, and distribution.

(b) All money received by the state from the sale of the publications listed in subdivision (a) shall be deposited in the treasury and credited to the General Fund, except that, where applicable, an amount necessary to cover the printing, publication, and distribution costs shall be credited to the fund from which the costs have been paid.

SEC. 1.5. Section 11356 of the Government Code is amended to read:

11356. (a) Article 6 (commencing with Section 11349) is not applicable to any building standards or administrative regulations that apply directly to the implementation or enforcement of a building standard, subject to the approval of the State Building Standards Commission.

(b) Article 5 (commencing with Section 11346) is applicable to those building standards, except that the office shall not disapprove those building standards nor refuse to publish any notice of proposed building standards if either has been approved by, and submitted to, the office by the State Building Standards Commission pursuant to Section 18935 of the Health and Safety Code.

SEC. 1.7. Section 18902 is added to the Health and Safety Code, to read:

18902. All references to the State Building Code, State Building Standards Code, Title 24 of the California Administrative Code shall mean the California Building Standards Code.

SEC. 2. Section 18905.5 of the Health and Safety Code is amended to read:

18905.5. "Adopting agency" means a state agency responsible for the administration of a program which has adopted and submitted for approval a building standard or building standards or administrative regulations that apply directly to the implementation or enforcement of building standards to the commission.

SEC. 3. Section 18906 of the Health and Safety Code is amended to read:

18906. "Adoption" or "adopt" means, with respect to the procedure for promulgation of a building standard or administrative regulations that apply directly to the implementation or enforcement of building standards, the final act of a state agency

responsible for the administration of a program in promulgating a building standard for the program.

SEC. 4. Section 18907 of the Health and Safety Code is amended to read:

18907. "Approval" means, with respect to the procedure for promulgation of a building standard or administrative regulations that apply directly to the implementation or enforcement of building standards, the action of approval by the State Building Standards Commission. Until there is approval of the standard by the commission, it shall be a proposed building standard or regulation.

SEC. 5. Section 18910 of the Health and Safety Code is amended to read:

18910. "Code" means the California Building Standards Code, including the triennial editions and supplements and administrative regulations that apply directly to the implementation or enforcement of building standards.

SEC. 6. Section 18911 of the Health and Safety Code is amended to read:

18911. "Codification" or "codify" means to arrange building standards or administrative regulations that apply directly to the implementation or enforcement of building standards in the publication format of the code as determined by the commission.

SEC. 7. Section 18913 of the Health and Safety Code is amended to read:

18913. "Emergency standard" means either of the following:

(a) A building standard or an order of repeal of a building standard or administrative regulations that apply directly to the implementation or enforcement of building standards filed for publication in the code by the commission pursuant to Section 11346.1 of the Government Code.

(b) A building standard adopted by the Occupational Safety and Health Standards Board which is at least as effective as a federal standard promulgated under Section 6 of the federal Occupational Safety and Health Act of 1970 (Public Law 91-596).

SEC. 8. Section 18917.3 of the Health and Safety Code is amended to read:

18917.3. "Publication" or "publish" means to print and make available to the public the California Building Standards Code or administrative regulations that apply directly to the implementation or enforcement of building standards.

SEC. 8.5. Section 18921 of the Health and Safety Code is amended to read:

18921. (a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government building officials, fire and safety officials, and labor in accordance with the following:

(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:

(1) An architect.

(2) A mechanical or electrical engineer or fire protection engineer.

(3) A structural engineer.

(4) A licensed contractor.

(c) Three members shall be appointed from among the general public at least one of whom shall be a physically handicapped person.

(d) One member shall be appointed from organized labor in the building trades.

(e) One member shall be appointed who is a local building official.

(f) One member shall be appointed who is a local fire official.

(g) At least one member of the commission shall be experienced and knowledgeable in barrier free architecture and aware of, and sensitive to, the requirements necessary to ensure public buildings are accessible to, and usable by, the physically handicapped.

As used in this section, "physically handicapped" means persons who have permanent mobility impairments which affect ambulation due to cerebral palsy, poliomyelitis, spinal cord injury, amputation, and other conditions or diseases which reduce mobility or require the use of crutches, canes, or wheelchairs.

SEC. 9. Section 18926 of the Health and Safety Code is amended to read:

18926. (a) There is, in the office of the executive director, a coordinating council. The membership of such council shall consist of the executive director who shall serve as chairperson, and representatives appointed by the State Director of Health Services, the Director of the Office of Statewide Health Planning and Development, the Director of Housing and Community Development, the Director of Industrial Relations, the State Fire Marshal, the Executive Director of the State Energy Resources Conservation and Development Commission, and the Director of General Services.

(b) Subject to the pleasure of the commission:

(1) The council or any member of the council shall, when called and directed in writing by the executive director, work with and assist an adopting agency in the development of proposals for building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(2) When an adopting agency contemplates the adoption of any building standard, it shall, prior to commencing any action to prepare a draft of the proposal, advise the executive director, in writing, of that intent and request the executive director to call the council, or any member of the council, as appropriate, for assistance.

(3) Whenever the commission returns for amendment, or rejects any proposed building standard or administrative regulations that apply directly to the implementation or enforcement of building standards, and one of the reasons for that action is that approval of the proposal would create a conflict with existing building standards

of other adopting agencies, the executive director shall call the council or any member of the council, as appropriate, to assist in the elimination of the conflict.

(4) The council shall draft proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards which the commission is authorized to adopt pursuant to Section 18933 for the consideration of the commission and approval, utilizing the criteria of Section 18930.

SEC. 10. Section 18927 of the Health and Safety Code is amended to read:

18927. The commission may appoint from the design professions, the building and construction industry, the affected general public, and interested governmental agencies, appropriate advisory panels to advise the commission and its staff with respect to building standards or administrative regulations that apply directly to the implementation or enforcement of building standards. The persons appointed to the panels shall be specifically knowledgeable and qualified in the type of work embraced by the building standards in question. These persons shall serve without compensation, but may receive actual necessary travel expenses.

SEC. 10.5. Section 18928 of the Health and Safety Code is amended to read:

18928. (a) Each state agency adopting a model code, national standard, or specification shall reference the most recent edition of applicable model codes, national standards, or specifications.

(b) Each state agency adopting a model code, national standard, or specification shall adopt the most recent editions of the model codes, as amended by the adopting agency, within one year after the date of publication of the model codes, national standards, or specifications. The "date of publication of a model code, national standard, or specification" is either of the following:

(1) The date of publication printed in the model code, national standard, or specification. If only a month and year are shown by the model code, national standard, or specification adopting agency or body, the date of publication shall be considered to be the last day of the month shown.

(2) The date determined by the commission, if no publication date is shown in the model code, national standard, or specification. The commission shall notify all adopting agencies of its determination within 15 days.

(c) If the adopting agencies fail to comply with subdivision (b), the commission shall convene a committee to recommend to the commission the adoption, amendment, or repeal, on the agencies' behalf, of the most recent editions of the model codes, national standards, or specifications and necessary state standards.

SEC. 11. Section 18929 is added to the Health and Safety Code, to read:

18929. Administrative regulations adopted by state agencies that

apply directly to the implementation or enforcement of building standards shall be forwarded to the Building Standards Commission for approval. Each regulation shall be adopted in compliance with procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, and Section 18930 of the Health and Safety Code. These administrative regulations shall be published in the administrative chapters of the California Building Standards Code.

SEC. 12. Section 18930 of the Health and Safety Code is amended to read:

18930. (a) Any building standard or administrative regulations that apply directly to the implementation or enforcement of building standards adopted by state agencies shall be submitted, to and approved by, the State Building Standards Commission prior to codification. Prior to submission to the commission, building standards or administrative regulations that apply directly to the implementation or enforcement of building standards adopted by state agencies shall be adopted in compliance with the procedures specified in Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. Building standards adopted by state agencies and submitted to the commission for approval shall be accompanied by an analysis written by the adopting agency which shall, to the satisfaction of the commission, justify the approval thereof in terms of the following criteria:

(1) The proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards do not conflict with, overlap, or duplicate other building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(2) The proposed building standard is within the parameters established by enabling legislation and is not expressly within the exclusive jurisdiction of another agency.

(3) The public interest requires the adoption of the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(4) The proposed building standard or administrative regulations that apply directly to the implementation or enforcement of building standards is not unreasonable, arbitrary, unfair, or capricious, in whole or in part.

(5) The cost to the public is reasonable based on the overall benefit to be derived from the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

(6) The proposed building standard or administrative regulations that apply directly to the implementation or enforcement of building standards is not unnecessarily ambiguous or vague, in whole or in part.

(7) The applicable national specifications, published standards,

and model codes have been incorporated therein as provided in this part, where appropriate.

(A) If a national specification, published standard, or model code does not adequately address the goals of the state agency, a statement defining the inadequacy shall accompany the proposed building standard when submitted to the commission.

(B) If there is no national specification, published standard, or model code that is relevant to the proposed building standard, the state agency shall prepare a statement informing the commission and submit that statement with the proposed building standard.

(8) The format of the proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards is consistent with that adopted by the commission.

(9) The proposed building standard, if intended to promote fire and panic safety, has the written approval of the State Fire Marshal.

(b) In reviewing building standards or administrative regulations that apply directly to the implementation or enforcement of building standards submitted for its approval, the commission shall consider only the following:

(1) Except as provided in subdivision (b) of Section 11342.3 of the Government Code, the record of the proceedings of the adopting agency.

(2) The evidence submitted to, and considered by, the adopting agency.

(c) The commission shall give great weight to the determinations and analysis of the adopting agency on each of the criteria for approval set forth in subdivision (a). Any factual determinations of the adopting agency shall be considered conclusive by the commission unless the commission specifically finds, and sets forth its reasoning in writing, that the factual determination is arbitrary and capricious or substantially unsupported by the evidence considered by the adopting agency.

Whenever the commission makes a finding, as described in this subdivision, it shall return the standard to the adopting agency for a reexamination of its original determination of the disputed fact.

(d) Whenever a building standard is principally intended to protect the public health and safety, its adoption shall not be a "factual determination" for purposes of subdivision (c). Whenever a building standard is principally intended to conserve energy or other natural resources, the commission shall consider or review the cost to the public or benefit to be derived as a "factual determination" pursuant to subdivision (c). Whenever a building standard is intended to promote fire and panic safety, each agency shall, unless adopted by the State Fire Marshal, submit the building standard to the State Fire Marshal for prior approval.

(e) Whenever the commission finds, pursuant to paragraph (2) of subdivision (a), that a building standard is adopted by an adopting agency pursuant to statutes requiring adoption of the building

standard or administrative regulations that apply directly to the implementation or enforcement of building standards, the commission shall not consider or review whether the adoption is in the public interest pursuant to paragraph (3) of subdivision (a).

SEC. 13. Section 18931 of the Health and Safety Code is amended to read:

18931. The commission shall perform the following:

(a) In accordance with Section 18930 and within 120 days from the date of receipt of adopted standards, review the standards of adopting agencies in order to approve, return for amendment with recommended changes, or reject building standards or administrative regulations that apply directly to the implementation or enforcement of building standards submitted to the commission for its approval. When building standards are returned for amendment or rejected, the commission shall inform the adopting agency of the specific reasons for the recommended changes or rejection, citing the criteria required under Section 18930. When standards or administrative regulations that apply directly to the implementation or enforcement of building standards are not acted upon by the commission within 120 days, the standards shall be approved, including codification and publication in the California Building Standards Code, without further review and without return or rejection by the commission.

(b) Codify, including publish, all building standards or administrative regulations that apply directly to the implementation or enforcement of building standards of state agencies and statutes defining building standards into one California Building Standards Code.

(c) Resolve conflict, duplication, and overlap in building standards or administrative regulations that apply directly to the implementation or enforcement of building standards in the code.

(d) Ensure consistency in nomenclature and format in the code.

(e) In accordance with Section 18945, hear appeals resulting from the administration of state building standards.

(f) Adopt any procedural regulations which it deems necessary to administer this part.

SEC. 14. Section 18931.5 of the Health and Safety Code is amended to read:

18931.5. Each state agency which adopts or has adopted building standards or adminstrative regulations that apply directly to the implementation or enforcement of building standards shall pay annually to the Building Standards Commission a proportionate share of the cost of the review and publication of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards which are published or proposed to be published in the California Building Standards Code.

The commission shall determine the proportional cost to be paid for review of existing building standards or administrative

regulations that apply directly to the implementation or enforcement of building standards and the amount to be paid for review of building standards adopted by the state agency which are submitted for publication in the California Building Standards Code.

SEC. 15. Section 18932 of the Health and Safety Code is amended to read:

18932. (a) The code shall indicate the agency having responsibility vested by law for the administration of each building standard or administrative regulations that apply directly to the implementation or enforcement of building standards and the occupancy or occupancies affected by each such building standard.

(b) The code shall include an index and reference guide.

(c) The commission shall establish the format for the code to conform it as nearly as it deems practicable with the model codes.

SEC. 16. Section 18933 of the Health and Safety Code is amended to read:

18933. (a) The commission may give affected state agencies reasonable time, as specified by the commission, to adopt amendments to building standards or administrative regulations that apply directly to the implementation or enforcement of building standards submitted for approval. If the agencies do not do so within the reasonable time as specified, the commission shall convene a committee composed of a representative from each of the agencies affected and any other qualified persons who are selected by the commission. This committee shall prepare a recommendation for commission action upon the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards. Upon the recommendation, or if the committee does not prepare a recommendation and deliver it to the commission within 30 days after being appointed, the commission may rewrite, edit, amend, or adopt, and approve the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards consistent with the intent of this part and in accordance with the Administrative Procedure Act and the criteria for approval provided in Section 18930. It shall not, however, be required that hearings or other administrative procedure be duplicated on unchanged portions of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards previously adopted and approved by the commission.

(b) Pursuant to Section 18943, the commission, after publication of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards pursuant to Section 18941 in the triennial edition of the code, shall recommend to affected state agencies the repeal of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards of the state agencies which were adopted, or are, in conflict with such published standards in the code. If the state agency does not adopt the repealer

of the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards of the state agencies within a reasonable time as specified by the commission, the commission shall convene a committee composed of a representative of each of the agencies affected and such other qualified persons as selected by the commission to prepare a recommendation for commission action on the building standards. Upon the recommendation, or if the committee does not prepare a recommendation and deliver it to the commission within 30 days after being appointed, the commission may repeal the building standards, in accordance with the Administrative Procedure Act. This subdivision shall not supersede Section 18943, but, instead, provides the procedure for effecting that section.

SEC. 17. Section 18934.5 of the Health and Safety Code is amended to read:

18934.5. Where no state agency has the authority to adopt building standards or administrative regulations that apply directly to the implementation or enforcement of building standards applicable to state buildings, the commission shall adopt, approve, codify, and publish building standards providing the minimum standards for the design and construction of state buildings or administrative regulations that apply directly to the implementation or enforcement of building standards, including buildings constructed by the Trustees of the California State University and, to the extent permitted by law, to buildings designed and constructed by the Regents of the University of California. Building standards or administrative regulations that apply directly to the implementation or enforcement of building standards of the commission for state buildings shall comply with the criteria in subdivision (a) of Section 18930.

SEC. 18. Section 18935 of the Health and Safety Code is amended to read:

18935. (a) Notice of proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards shall be given and hearings shall be held by the adopting agencies, as required by the Administrative Procedure Act, prior to the adoption of the building standards or administrative regulations that apply directly to the implementation or enforcement of building standards and submission to the commission for approval. The notice of proposed building standards and the initial statement of reasons for the proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards shall comply with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code. The adopting agency shall submit the notice and initial statement of reasons for proposed building standards to the Building Standards Commission, which shall review them for compliance with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division

3 of Title 2 of the Government Code. If the commission determines that the adopting agency has complied with Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, the commission shall approve the notice and initial statement of reasons for proposed building standards or administrative regulations that apply directly to the implementation or enforcement of building standards, and submit them to the Office of Administrative Law for the sole purpose of inclusion in the California Regulatory Notice Register. The Office of Administrative Law shall publish only those notices of proposed building standards which have been approved by, and submitted to, the office by the State Building Standards Commission.

(b) In order to assure an absence of conflict between hearings and a maximum opportunity for interested parties to be heard, no hearings by adopting agencies shall be conducted unless the time and place thereof has been approved in writing by the commission prior to public notices of the hearing being given by the adopting agencies.

(c) If, after standards or administrative regulations are submitted to the commission for approval, the commission requires changes therein as a condition for approval, and the changes are made, no additional hearing by the affected state agency shall be required in connection with making the changes when the commission determines the changes are nonsubstantial, solely grammatical in nature, or are sufficiently related to the text submitted to the commission for approval that the public was adequately placed on notice that the change could result from the originally proposed standards or administrative regulations that apply directly to the implementation or enforcement of building standards.

SEC. 19. Section 18936 of the Health and Safety Code is amended to read:

18936. The commission shall mail notices of meetings with respect to its proposed action on any building standards or administrative regulations that apply directly to the implementation or enforcement of building standards to any design profession organizations, chambers of commerce, consumer groups, building and construction industry organizations, governmental agencies, and other parties and organizations that have submitted a written request therefor at least 15 days prior to any meeting thereon, provided that the failure to do so shall not invalidate any commission action.

SEC. 20. Section 18937 of the Health and Safety Code is amended to read:

18937. (a) Emergency standards or administrative regulations that apply directly to the implementation or enforcement of building standards shall be acted on by the commission within 30 days and, except for building standards or administrative regulations that apply directly to the implementation or enforcement of building standards adopted by the Occupational Safety and Health Standards

Board which are at least as effective as a federal standard promulgated under Section 6 of the federal Occupational Safety and Health Act of 1970 (Public Law 91-596), only when the adopting agencies have made the finding of emergency required by Sections 11346.1 and 11346.5 of the Government Code and have adopted the emergency standard in compliance with Section 11346.1 of the Government Code, and the commission concurs with that finding. Both the concurrence and the approval of the emergency standards or administrative regulations that apply directly to the implementation or enforcement of building standards require an affirmative vote of two-thirds of the members of the commission attending a meeting, or not less than six affirmative votes, whichever is greater.

(b) Emergency standards approved by the commission pursuant to subdivision (a) shall be filed by the commission pursuant to Section 11346.1 of the Government Code and shall be subject to the provisions of that section.

SEC. 21. Section 18938 of the Health and Safety Code is amended to read:

18938. (a) Building standards or administrative regulations that apply directly to the implementation or enforcement of building standards shall be filed with the Secretary of State and codified only after they have been approved by the commission and shall not be published in any other title of the California Code of Regulations. Emergency standards or administrative regulations that apply directly to the implementation or enforcement of building standards shall be filed with the Secretary of State and shall take effect only after they have been approved by the commission as required by Section 18937. The filing of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards adopted or approved pursuant to this part, or any certification with respect thereto, with the Secretary of State, or elsewhere as required by law, shall be done solely by the commission.

(b) An adoption, amendment, or repeal of a building standard or administrative regulations that apply directly to the implementation or enforcement of building standards shall only become effective upon its publication in the triennial edition of the California Building Standards Code or one of its supplements, or at any later date as approved by the Building Standards Commission. This subdivision shall not apply to emergency standards, and standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code and published pursuant to subdivision (b) of Section 18943.

(c) This section shall not be applicable to the time limits set forth in Sections 17922 and 17958 for approval of uniform codes and for changes by local agencies in the California Building Standards Code.

SEC. 22. Section 18939 of the Health and Safety Code is amended to read:

18939. Building standards adopted or approved by the

commission shall incorporate the text of the model codes, applicable national specifications, or published standards, in whole or in part, only by reference, with appropriate additions or deletions therefrom. However, the commission may elect to adopt or approve standards which incorporate, in whole or in part, the text of these publications, with changes therein, or deletions therefrom, directly incorporated into the text of the California Building Standards Code, but no textual material contained in any of the model codes, as enumerated in Section 17922, may be included in the California Building Standards Code by means other than incorporation by reference, unless the commission and the governing body of the organization that publishes the model codes first reach a written agreement concerning the terms and conditions of the publication, including, but not limited to, whether the publication will be by the commission or the model code organization, or both. The model code governing body may not withhold any publication agreement on the basis of the substantive provisions contained in the California Building Standards Code.

SEC. 23. Section 18940 of the Health and Safety Code is amended to read:

18940. Building standards or administrative regulations that apply directly to the implementation or enforcement of building standards approved by the commission shall be incorporated into the code and shall not be incorporated into other individual titles of state agencies in the California Code of Regulations.

SEC. 24. Section 18941 of the Health and Safety Code is amended to read:

18941. All building standards and administrative regulations shall be administered and enforced and, whenever practicable, written on a performance basis consistent with state and nationally recognized standards for building construction in view of the use and occupancy of each structure to preserve and protect the public health and safety.

SEC. 25. Section 18942 of the Health and Safety Code is amended to read:

18942. (a) The commission shall publish, or cause to be published, editions of the code in its entirety once in every three years. In each intervening year the commission shall publish, or cause to be published, supplements as necessary. For emergency standards defined in subdivision (a) of Section 18913, an emergency standards supplement shall be published whenever the commission determines it is necessary. The commission shall also publish, for emergency standards defined in subdivision (b) of Section 18913 and for building standards or administrative regulations that apply directly to the implementation or enforcement of building standards approved pursuant to subdivision (b) of Section 142.3 of the Labor Code, a semiannual supplement, or a more frequent supplement if required by federal law.

(b) Emergency standards defined in subdivision (a) of Section

18913 shall become effective when approved by the commission, and filed with the Secretary of State, or upon any later date specified therein, and remain in effect as provided by Section 11346.1 of the Government Code and Section 18937 of this code. Emergency standards shall be distributed as soon as practicable after publication to all interested and affected parties. Notice of repeal pursuant to Section 11346.1 of the Government Code of emergency standards defined in subdivision (a) of Section 18913 within the period specified by that section shall also be given to the parties by the affected agencies promptly after the termination of the statutory period pursuant to Section 11346.1 of the Government Code.

(c) The commission may publish, stockpile, and sell at a reasonable price the code and any materials incorporated therein by reference if it deems the latter is insufficiently available to the public, or unavailable at a reasonable price. Each state department concerned and each city and county shall have an up-to-date copy of the code available for public inspection.

SEC. 26. Section 18942.1 of the Health and Safety Code is amended to read:

18942.1. If a regulation or order of repeal is filed with the Office of Administrative Law, and if it appears to be a building standard, as defined by Section 18909, or administrative regulations that apply directly to the implementation or enforcement of building standards which has not been approved by the commission, the Office of Administrative Law shall consult with the commission or the commission's staff to determine the character and status of the filed regulation or order. Any building standard or administrative regulations that apply directly to the implementation or enforcement of building standards improperly transmitted to the Office of Administrative Law, as determined according to this section, shall not be then filed with the Secretary of State, but, instead, the Office of Administrative Law shall transmit the building standard or administrative regulations that apply directly to the implementation or enforcement of building standards to the commission and notify the adopting agency of this action.

SEC. 27. Section 18942.2 is added to the Health and Safety Code, to read:

18942.2. If an administrative regulation or order of repeal is filed with the State Building Standards Commission and it does not directly apply to the implementation or enforcement of a building standard, it shall not be submitted to the commission for action, but, instead, the State Building Standards Commission shall transmit the regulations to the Office of Administrative Law and notify the submitting agency of this action.

SEC. 28. Section 18943 of the Health and Safety Code is amended to read:

18943. (a) Building standards in individual titles of the California Code of Regulations other than the California Building Standards Code shall have no force nor effect after January 1, 1985.

(b) Building standards adopted by the Occupational Safety and Health Standards Board shall be published as provided in Section 18942 by the commission in the California Building Standards Code. Those building standards or administrative regulations that apply directly to the implementation or enforcement of building standards may also be published by the Occupational Safety and Health Standards Board in other provisions in Title 8 of the California Code of Regulations prior to publication in the California Building Standards Code if that other publication includes an appropriate identification of building standards or administrative regulations that apply directly to the implementation or enforcement of building standards contained in the other publication.

SEC. 29. Section 18944 of the Health and Safety Code is amended to read:

18944. State agencies shall adopt regulations for publication in the titles of the California Code of Regulations containing other regulations of the agency to identify, by reference, the appropriate sections of the California Building Standards Code containing those building standards or administrative regulations that apply directly to the implementation or regulations of building standards for which that agency has enforcement responsibility.

SEC. 30. Section 18944.7 of the Health and Safety Code is amended to read:

18944.7. The alternative building regulations and building standards authorized under the State Historical Building Code (Part 2.7 (commencing with Section 18950) of Division 13) which have been published in Part 8 of the California Building Standards Code shall be maintained as a separate and distinct part or portion of the California Building Standards Code pursuant to that title.

SEC. 31. Sections 1 to 30, inclusive, of this act shall become operative January 1, 1989. State agencies shall take any action necessary to conform any building standards or administrative regulations to the requirements prescribed by this act by July 1, 1989.

CHAPTER 1195

An act to amend Sections 51010.5, 51012.3, 51013, and 51013.5 of the Government Code, relating to pipeline safety.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline, including a

common carrier pipeline, used for the transportation of hazardous liquid substances or highly volatile liquid substances, but does not include any of the following:

(1) An interstate pipeline subject to Part 195 of Title 49 of the Code of Federal Regulations.

(2) A pipeline for the transportation of a hazardous liquid substance in a gaseous state.

(3) A pipeline for the transportation of crude oil that operates by gravity or at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(4) A pipeline for the transportation of a hazardous liquid substance in those parts of an onshore pipeline system located in a rural area that transports crude oil from a treating facility or production storage facility to a tank farm, pipeline terminal, or transmission line.

(5) A pipeline for the transportation of a hazardous liquid substance offshore located upstream from the outlet flange of each facility on the Outer Continental Shelf where hydrocarbons are produced or where produced hydrocarbons are first separated, dehydrated, or otherwise processed, whichever facility is farther downstream.

(6) Transportation of a hazardous liquid by a flow line.

(7) A pipeline for the transportation of a hazardous liquid substance through an onshore production, refining, or manufacturing facility, including a storage or inplant piping system associated with that facility.

(8) Transportation of a hazardous liquid substance by vessel, aircraft, tank truck, tank car, or other vehicle or terminal facilities used exclusively to transfer hazardous liquids between those modes of transportation.

(b) "Flow line" means a pipeline which transports hazardous liquid substances from the well head to a treating facility or production storage facility.

(c) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing a liquid test medium.

(d) "Local agency" means a city, county, or fire protection district.

(e) "Rural area" means a location which lies outside the limits of any incorporated or unincorporated city or city and county, or other residential or commercial area, such as a subdivision, a business, a shopping center, or a community development.

SEC. 2. Section 51012.3 of the Government Code is amended to read:

51012.3. (a) Every operator of a pipeline shall conform the pipeline to the federal regulations in Subparts A to F, inclusive, of Part 195 of Title 49 of the Code of Federal Regulations, as those regulations may be hereafter amended, in accordance with the

following schedule:

(1) On or before July 1, 1984, the pipeline operator shall meet the requirements of subsection (c) of Section 195.401 of Title 49 of the Code of Federal Regulations, but those requirements shall apply only to a pipeline constructed after January 1, 1984, and shall not apply until January 1, 1991, to a pipeline which transports by gravity or which operates at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(2) On or before January 1, 1985, the pipeline operator shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations. Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 to Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985—50 F.R. 15895 et seq.), shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations on or before April 23, 1987.

(3) The pipeline operator shall meet the cathodic protection requirements of subdivision (a) of Section 195.414 of Title 49 of the Code of Federal Regulations as follows:

(A) On or before October 21, 1986, 25 percent of the required cathodic protection shall be installed.

(B) On or before October 21, 1987, 50 percent of the required cathodic protection shall be installed.

(C) On or before October 19, 1988, all required cathodic protection shall be installed, except as provided in paragraph (D).

(D) On or before January 1, 1991, all required cathodic protection shall be installed on pipelines which transport by gravity or operate at a stress level of 20 percent or less of the specified minimum yield strength of the pipe.

(4) Operators of intrastate pipelines subject to federal regulation under Amendment 195-33 of Part 195 of Title 49 of the Code of Federal Regulations issued April 17, 1985, (effective date, October 21, 1985—50 F.R. 15895 et seq.), shall meet the requirements of Section 195.414 (a), (b), and (c) of Title 49 of the Code of Federal Regulations.

(b) For purposes of applying the federal regulations of Part 195 of Title 49 of the Code of Federal Regulations, the word "Secretary," when it appears in the federal regulations, means the "State Fire Marshal."

SEC. 3. Section 51013 of the Government Code is amended to read:

51013. (a) Any new pipeline constructed after January 1, 1984, and which normally operates under conditions of constant flow and pressure, shall be designed and constructed in accordance with Subparts C and D of Part 195 of Title 49 of the Code of Federal Regulations and shall include a means of leak detection and cathodic protection which the State Fire Marshal determines is acceptable, except that any such pipeline which transports by gravity or operates at a stress level of 20 percent or less of the specified minimum yield

strength of the pipe shall meet these design and construction requirements on or before January 1, 1991.

(b) Subdivision (a) does not apply to the replacement of valves and the relocation or replacement of portions of pipelines.

SEC. 4. Section 51013.5 of the Government Code is amended to read:

51013.5. (a) Every newly constructed pipeline, existing pipeline or part of a pipeline system that has been relocated or replaced, and every pipeline that transports a hazardous liquid substance or highly volatile liquid substance, shall be tested in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations.

(b) Every pipeline not provided with properly sized automatic pressure relief devices or properly designed pressure limiting devices shall be hydrostatically tested annually.

(c) Every pipeline over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years.

(d) Every pipeline over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years.

(e) In addition to the requirements of subdivisions (a) to (d), inclusive, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, at any time, in the interest of public safety.

(f) Other test methods may be approved by the State Fire Marshal on an individual basis.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1196

An act to amend Sections 11202 and 11215.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 11202 of the Vehicle Code is amended to read:

11202. (a) Except as provided in subdivision (c), a traffic violator school owner shall meet the following criteria before a license may

be issued for the traffic violator school:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this paragraph.

(2) Maintain an established place of business in this state which is open to the public in accordance with regulations of the department. No office or place of business of a traffic violator school, including any traffic violator school branch or classroom location, may be situated within 500 feet of any building used by the department as an office, or any court of law, unless the owner was established at the location on or before July 1, 1984.

(3) Conform to standards which shall be established by regulation of the department. In adopting the standards, the department shall consider those practices and instructional programs which may reasonably foster the knowledge, skills, and judgment necessary for the compliance with traffic laws. The standards may include, but are not limited to, school personnel, equipment, curriculum, procedures for the testing and evaluation of students, recordkeeping, and business practices.

(4) Except as provided in Section 11203, procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety and conditioned upon the applicant not practicing any fraud or making any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant.

(5) Have a classroom approved by the department and the proper equipment necessary for giving instruction to traffic violators.

(6) Have a lesson plan approved by the department. An approved lesson plan shall provide a minimum of 400 minutes of instruction, except that a lesson plan for instructing persons under the age of 18 may provide a minimum of 600 minutes of instruction.

(7) Execute and file with the department a good and sufficient instrument designating the director as agent of the applicant for the purpose of service of process, as provided in this paragraph, in any action or actions which may thereafter be commenced against the applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of (A) a violation by the applicant of any of the provisions of this code committed in relation to the specifications of the applicant's traffic violator school or (B) any condition of the bond required by paragraph (4). The applicant shall stipulate and agree in the instrument that any process directed to the applicant, when personal service of process upon him or her cannot be made in this state after due diligence, may be served instead upon the director, or in the event of the director's absence from the department's principal offices, upon any employee in charge of the office of the director, and this substituted service shall be of the same legal force and effect as personal service of the

applicant.

The instrument shall further stipulate and agree that the agency created by the designation shall continue for and during the period covered by the license issued pursuant to this section and so long thereafter as the applicant may be made to answer in damages for a violation of this code for which the surety may be made liable or any condition of the bond. The instrument designating the director as agent for service of process shall be acknowledged by the applicant before a notary public. In any case where the director or an employee of the department, in lieu of the director, is served with a summons and complaint on behalf of the licensee, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of fifty dollars ($50) shall also be paid to the director or employee at the time of service of the copy of the summons and complaint, or shall be included with a summons and complaint served by mail. The service on the director or department employee pursuant to this section is sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is, on the same business day as the service or mailing of the summons and complaint, sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or plaintiff's attorney to the surety on the licensee's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

The director shall keep a record of all processes so served upon him or her, which shall show the day and hour of service, and shall retain the documents served in the department's files. Where the licensee is served with legal process by service upon the director or a department employee in lieu of the director, the licensee shall be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For purposes of venue, where the licensee is served with process by service upon the director or a department employee in lieu of the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

(b) The qualifying requirements specified in subdivision (a) shall be met within one year from the date of application for a license, or a new application and fee shall be required.

(c) Paragraphs (4) and (7) of subdivision (a) do not apply to public schools or other public agencies, which shall also not be required to post a cash deposit pursuant to Section 11203.

(d) A notice approved by the department shall be posted in every traffic violator school, branch, and classroom location stating that any person involved in the offering of, or soliciting for, a completion certificate for attendance at a traffic violator school program in which the person does not attend or does not complete the minimum amount of instruction time provided by subdivision (a) may be guilty

of violating Section 134 of the Penal Code.

SEC. 2. Section 11202 of the Vehicle Code is amended to read:

11202. (a) Except as provided in subdivision (c), a traffic violator school owner shall meet the following criteria before a license may be issued for the traffic violator school:

(1) Be a person who has not been convicted of a crime involving an act of dishonesty, fraud, or deceit with the intent to benefit himself or herself or another substantially, or to injure another substantially. A conviction after a plea of nolo contendere is a conviction for purposes of this paragraph.

(2) Maintain an established place of business in this state which is open to the public in accordance with the regulation of the department. No office or place of business of a traffic violator school, including any traffic violator school branch or classroom location, may be situated within 500 feet of any building used by the department as an office, or any court of law, unless the owner was established at the location on or before July 1, 1984.

(3) Conform to standards which shall be established by regulation of the department. In adopting the standards, the department shall consider those practices and instructional programs which may reasonably foster the knowledge, skills, and judgment necessary for the compliance with traffic laws. The standards may include, but are not limited to, school personnel, equipment, curriculum, procedures for the testing and evaluation of students, recordkeeping, and business practices.

(4) Procure and file with the department a bond in the amount of two thousand dollars ($2,000) executed by an admitted surety and conditioned upon the applicant not practicing any fraud or making any fraudulent representation which will cause a monetary loss to a person taking instruction from the applicant or to the state or any of its subdivisions.

(5) Have a classroom approved by the department and the proper equipment necessary for giving instruction to traffic violators.

(6) Have a lesson plan approved by the department and provide no less than the minimum instructional time specified in the plan. An approved lesson plan shall provide a minimum of 400 minutes of instruction, except that a lesson plan for instructing persons under the age of 18 may provide a minimum of 600 minutes of instruction.

(7) Execute and file with the department a good and sufficient instrument designating the director as agent of the applicant for the purpose of service of process, as provided in this paragraph, in any action or actions which may thereafter be commenced against the applicant arising out of any claim for damages suffered by any firm, person, association, or corporation by reason of (A) a violation by the applicant of any of the provisions of this code committed in relation to the specifications of the applicant's traffic violator school or (B) any condition of the bond required by paragraph (4). The applicant shall stipulate and agree in the instrument that any process directed to the applicant, when personal service of process upon him or her

cannot be made in this state after due diligence, may be served instead upon the director, or in the event of the director's absence from the department's principal offices, upon any employee in charge of the office of the director, and this substituted service shall be of the same legal force and effect as personal service of the applicant.

The instrument shall further stipulate and agree that the agency created by the designation shall continue for and during the period covered by the license issued pursuant to this section and so long thereafter as the applicant may be made to answer in damages for a violation of this code for which the surety may be made liable or any condition of the bond. The instrument designating the director as agent for service of process shall be acknowledged by the applicant before a notary public. In any case where the director or an employee of the department, in lieu of the director, is served with a summons and complaint on behalf of the licensee, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of fifty dollars ($50) shall also be paid to the director or employee at the time of service of the copy of the summons and complaint, or shall be included with a summons and complaint served by mail. The service on the director or department employee pursuant to this section is sufficient service on the licensee if a notice of the service and a copy of the summons and complaint is, on the same business day as the service or mailing of the summons and complaint, sent by registered mail by the plaintiff or his or her attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or plaintiff's attorney to the surety on the licensee's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt.

The director shall keep a record of all processes so served upon him or her, which shall show the day and hour of service, and shall retain the documents served in the department's files. Where the licensee is served with legal process by service upon the director or a department employee in lieu of the director, the licensee shall be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. For purposes of venue, where the licensee is served with process by service upon the director or a department employee in lieu of the director, the service shall be deemed to have been made upon the licensee in the county in which the licensee has or last had his or her established place of business.

(8) Meet the requirements of Sections 11202.5 and 11208 relating to traffic violator school operators if the owner is also the operator of the traffic violator school. If the owner is not the operator of the traffic violator school, the owner shall designate an operator who shall meet the requirements of Section 11202.5.

(b) The qualifying requirements specified in subdivision (a) shall be met within one year from the date of application for a license, or

a new application and fee shall be required.

(c) Paragraphs (4) and (7) of subdivision (a) do not apply to public schools or other public agencies, which shall also not be required to post a cash deposit pursuant to Section 11203.

(d) Paragraph (8) of subdivision (a) shall not apply to public schools or other public educational institutions.

(e) A notice approved by the department shall be posted in every traffic violator school, branch, and classroom location stating that any person involved in the offering of, or soliciting for, a completion certificate for attendance at a traffic violator school program in which the person does not attend or does not complete the minimum amount of instruction time provided by subdivision (a) may be guilty of violating Section 134 of the Penal Code.

SEC. 3. Section 11215.5 of the Vehicle Code is amended to read:

11215.5. The department, after notice and hearing, may also suspend or revoke any license issued under this chapter when any of the following circumstances exist:

(a) If the main business office of the traffic violator school is located in any county with a population of 400,000 or more in which the traffic violator school conducts its instructional program, and the main business office does not maintain office hours during the time that the day courts in that county are open for business. This subdivision shall not apply to public schools.

(b) If the licensee is found by the department to be selling, or knowingly permitting the sale of, completion certificates.

(c) If the licensee is found by the department to be intentionally cutting instructional time short.

(d) If the licensee is found by the department to be intentionally diverting any student to a traffic school other than the school initially contacted by that student, without disclosure to that student, through the use of the department's list of licensed traffic violator schools.

SEC. 4. Section 2 of this bill incorporates amendments to Section 11202 of the Vehicle Code proposed by both this bill and AB 3675. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1989, (2) each bill amends Section 11202 of the Vehicle Code, and (3) this bill is enacted after AB 3675, in which case Section 1 of this bill shall not become operative.

CHAPTER 1197

An act to amend Sections 69894.1, 69894.6, 72607, 72608, 72609, 72645, 72646, 72702.5, 72703, 72704, and 72704.5 of the Government Code, relating to courts.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 69894.1 of the Government Code is amended to read:

69894.1. In the County of Los Angeles, a majority of the judges of the superior court may appoint the following officers and employees whose salaries shall be:

Number	Title	Schedule
1	Accountant	57C
4	Accounting Technician	47H
1	Administrative Assistant II	61C
2	Administrative Assistant III	64K
17	Administrative Judicial Secretary	56G
1	Administrative Secretary	53G
1	Arbitration Administrator	68G
1	Assistant County Clerk	R14
1	Assistant Criminal Courts Coordinator	67F
1	Assistant Director, Juror Management	R9
1	Assistant Director, Pre-Trial Services	R8
10	Assistant District Chief	67G N.W.
1	Assistant Division Chief, Mental Health Services	R9 (effective 2/23/88)
1	Assistant Executive Officer	R14
15	Assistant Head, Court Services	67G
1	Assistant Head, Office Services	55B
2	Assistant Juvenile Courts Coordinator	67F
1	Assistant Supervising Probate Attorney	92E N.X.
2	Assistant to the Executive Officer	R10
1	Associate Personnel Administrator	R10
1	Chief Clerk	57K
9	Child Custody Evaluator	71K
1	Civil Courts Coordinator	R10

1	County Clerk/Executive Officer/ Jury Commissioner	R17
63	Court Attendant	50D
51	Court Commissioner	F $6,004.18 (effective 1/1/88)
21	Court Exhibits Custodian	48K
2	Court Facilities and Property Services Coordinator	64K
324	Court Reporter	73H N.Z.
1	Court Statistician	57K
1	Criminal Courts Coordinator	R10
2	Data Conversion Equipment Operator	44B
1	Delinquency Court Coordinator	R10
1	Dependency Court Coordinator	R10
1	Director, Court Staff Services	R11
1	Director, Fiscal and Administrative Services	R12
1	Director, Juror Management	R13
1	Director, Juvenile Court Services	R13
1	Director, Family Court Services	R11
1	Director, Personnel Administration	R11
1	Director, Pre-Trial Services	R10
3	Director, Superior Court/County Clerk Services	R12
9	District Chief	R9
10	District Jury Coordinator	46G
1	Division Chief, Budget and Finance	R10
1	Division Chief, Capital Projects and Facilities Services	R10
1	Division Chief, Management Systems	R11
1	Division Chief, Mental Health Services	R11 (effective 2/23/88)
3	Division Chief, Superior Court/ County Clerk Services	R10
2	EDP Programmer Analyst	63C
5	Electronic Recording Monitor	50D
2	Executive Assistant	71K
1	Finance Officer	71K
1	Graphic Arts Aide	45G
1	Head, Budget and Support Services	R9
1	Head, Court Attendant Services	64F
1	Head, Court Finance	R9

8	Head, Court Services	R8
1	Head, Management Audits	77E
1	Head, Office Services	64E
1	Head, Staffing Services	71L
4	Interpreter	46K
2	Interpreter/Court Reporter Assignment Clerk	61K (effective 2/23/88)
58	Investigator	61J N.X.
69	Investigator Aide	51B
244	Judicial Assistant	61F
30	Judicial Assistant Trainee	F $2,110.36
14	Judicial Secretary	49G
2	Jury Program Coordinator	60D
30	Law Clerk	65K
1	Law Librarian, Superior Court	66A
5	Legal Research Assistant	50F
5	Light Vehicle Driver	39G
10	Mental Health Hearing Referee	71K
1	Office Assistant Trainee	34G
372	Office Assistant I	38G
86	Office Assistant II	42G
60	Office Assistant III	44G
8	Office Assistant IV	46G
7	Offset Duplicator Operator	42G
1	Payroll Records Supervisor	53A
2	Personnel Assistant	45K
4	Personnel Technician	63L
1	Principal Counselor	71E
2	Principal Program Analyst	73L
13	Probate Attorney	88C N.W.
1	Probate Commissioner	A3
11	Probate Decree Clerk	45B
2	Procurement Assistant	49F
1	Program Analyst	63L
6	Program Specialist	59D
1	Project Manager	70K
3	Property Custodian-Auditor	45F
1	Psychiatric Physician	FD $245.87
2	Records Assistant	44K
9	Referee	FD $276.05 (effective 1/1/88)
1	Research Aide	47L
1	Research Attorney	82C N.W.
6	Secretary I	46B
2	Secretary II	51G

1	Secretary to the Assistant County Clerk	59G
1	Secretary to the Assistant Executive Officer	59G
1	Secretary to the County Clerk/Executive Officer	65G
1	Secretary to Grand Jury	59F
1	Secretary to Presiding Judge	67G
12	Senior Counselor	67H
3	Senior Court Attendant	56B
2	Senior Departmental Personnel Technician	67L
5	Senior EDP Programmer Analyst	65C
26	Senior Family Mediator	71K
7	Senior Investigator, Own Recognizance	69J
9	Senior Investigator Aide	53B
32	Senior Judicial Secretary	52G
18	Senior Juvenile Traffic Hearing Officer	69G
11	Senior Office Assistant I	48G
5	Senior Office Assistant II	52D
1	Senior Offset Duplicator Operator	46G
2	Senior Personnel Assistant	54C
1	Senior Probate Decree Clerk	51A
2	Senior Program Analyst	67L
1	Senior Property Custodian-Auditor	51E
1	Senior Word Processor	47B
1	Special Assistant	R8
2	Staff Assistant I	52E
3	Staff Assistant II	59E
3	Staff Consultant	R10
220	Student Worker	FH $6.63
3	Supervising Counselor, Family Court Services	R9
3	Supervising Court Exhibits Custodian I	51J
1	Supervising Court Exhibits Custodian II	57G
9	Supervising District Office Clerk	55C
2	Supervising EDP Programmer Analyst	71E
1	Supervising Juvenile Traffic Hearing Officer	R10
2	Supervising Law Clerk	67K
1	Supervising Probate Decree Clerk	61E
1	Supervisor, Budget Procurement and Supply Services	71K

1	Supervisor, Mail and Reproduction Services	50G
1	Supply Clerk	45A
1	Training Officer	71L
10	Family Counselor Intern, W/O Compensation	
15250	Deputy County Clerk, W/O Compensation	
250	Volunteer, W/O Compensation	

Whenever a reference to numbered salary schedules and notes is made in this section, those found in the Los Angeles County Code, Title 6, shall apply. Whenever the compensation of superior court judges is adjusted, the flat-rate salaries for court commissioners, senior referees and referees shall be adjusted to maintain the salary relationship of 85 percent of the annual compensation of superior court judges.

Reduction of the schedule applicable to a class by reason of the adoption of this salary plan or subsequent reclassification of position for organizational purposes shall not result in a lower salary rate to incumbents of such positions. The court is authorized to regulate by rule the status of employees so affected.

As defined in the Los Angeles County Code, Section 6.28.030, the following prefixes are used instead of schedule numbers:

F—Flat rate per month

FD—Flat rate per day

FH—Flat rate per hour

N.W.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a six-step salary range, the sixth step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. The rate or rates established by this provision constitute a base rate.

N.X.—As defined in the Los Angeles County Code Section 6.28.050.

N.Z.—Pursuant to the Los Angeles County Code, Title 6, employees employed in this position shall be compensated on a seven-step salary range, the sixth step being the fifth step of the salary schedule which is one standard salary schedule above the indicated schedule number, and the seventh step being the fifth step of the salary schedule which is two standard salary schedules above the indicated schedule number. Advancement to the sixth step shall be granted upon completion of 18 months of continuous service at the fifth step and advancement to the seventh step shall be granted upon completion of 18 months of continuous service at the sixth step. The rate or rates established by this provision constitute a base rate.

"R" or "A" indicates a position's inclusion in the County's Performance Based Pay Plan. The grade number following the "R" or "A" designation indicates the salary range. Compensation of such

positions is in accordance with Sections 6.08.305-360 of the County Code.

All personnel appointed pursuant to this article, except the county clerk/executive officer/jury commissioner, shall serve at the pleasure of the court and may at any time be removed by the court in its discretion. The county clerk/executive officer/jury commissioner shall serve at the pleasure of the court and the board of supervisors.

SEC. 2. Section 69894.6 of the Government Code is amended to read:

69894.6. Notwithstanding the provisions of Section 69894.1, in the County of Los Angeles, a majority of the judges of the superior court may appoint 324 court reporters, each of whom shall receive a salary equivalent to the schedule designation 73H N.Z. in the Los Angeles County Code. Court reporters shall serve at the pleasure of the court and may at any time be removed by the court in its discretion.

Reduction of the schedule applicable to court reporters by reason of the adoption of this salary plan or subsequent reclassification of positions for organizational purposes shall not result in a lower salary rate to incumbent court reporters. The court may regulate by rule the status of employees so affected.

SEC. 3. Section 72607 of the Government Code is amended to read:

72607. Notwithstanding the numbers and classifications of court officers and attachés specified in Articles 2, 3, and 4 of Chapter 9, Title 8 of the Government Code, the judges of a municipal court in a county having a population of 3,000,000 or over, with the approval of the board of supervisors, may appoint and employ such additional commissioners, officers, and attachés as are necessary to the performance of duties and exercise of powers within the jurisdiction of the court. The compensation of such appointees shall be as provided in such chapter for the same position, or, where not so provided, as may be established by the judges with the approval of the board of supervisors.

The majority of municipal court judges in such county, with the approval of the board of supervisors, may authorize the marshal, and the judges of any municipal court in such county, with such approval, may authorize the clerk of such court, to adjust rates of compensation, to appoint such additional deputies in any classifications as may be required for the prompt and faithful discharge of the duties of the respective offices. Deputies so appointed shall receive the respective rates of pay provided for existing classifications, or, if there be no such existing classification for which a pay rate has been established, then they shall receive such rates of pay as shall be established by the judges authorizing such appointments and approved by the board of supervisors.

Appointments and adjustments made pursuant to this section shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

It is the intention of the Legislature that the provisions of this section be cumulative to, and not in abrogation of, other provisions of law governing the additional or emergency appointment of deputy clerks and deputy marshals.

SEC. 4. Section 72608 of the Government Code is amended to read:

72608. Certain classes of positions prescribed in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), and Article 4 (commencing with Section 72750) of this chapter are deemed to be related in job and compensation to position classifications included in the Los Angeles County Code, and in the case of certain classes of positions, to the administrative series included in Section 69894.1. In order to maintain the relationship of compensation and employee rights and benefits between such officers and attachés of municipal courts and county or superior court employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee rights and benefits for related classes of court positions, the provisions of this section shall govern salary adjustments and employee rights and benefits for officers and attachés of municipal courts in Los Angeles County.

On the effective date of any amendment to such code adjusting the salary of a county employee classification listed in the table of positions set forth in this section, or on the effective date of a resolution or ordinance by the board of supervisors approving interim salary adjustments for superior court classes pursuant to Section 69894.2, the salary of the equivalent municipal court position listed opposite thereto and each other class of court position indented immediately thereunder shall be adjusted an equivalent number of schedules in the salary schedule to which such position is attached. In no event shall any one such adjustment exceed eight schedule numbers. If the level of compensation established by any such salary adjustment is not reflected in the salary schedule number provided for any court classification, the adjustment shall apply to each position in such classification on the effective date of the act fixing such salary schedule number. Classes of positions in the Performance-Based Pay Plan shall be compensated and adjusted in accordance with provisions approved by the board of supervisors.

Likewise, the salary of any court classification being enumerated in Article 2 (commencing with Section 72640), Article 3 (commencing with Section 72700), or Article 4 (commencing with Section 72750) of this chapter for the first time as an amendment to this chapter shall be adjusted as necessary on the effective date of such amendment to provide the same relationship to the county classification to which it is attached as that established when the court classification was approved in accordance with the provisions of Section 72607.

Table of Positions

Municipal Court Class	County or Superior Court Class
Officer Series	
Marshal	Performance-Based Pay Plan
Assistant marshal	
Commander, marshal	
Captain, marshal	
Head, Fiscal & Administrative Services, marshal	
Lieutenant	Lieutenant
Sergeant	Sergeant
Deputy marshal IV	Deputy sheriff IV
Deputy marshal	Deputy sheriff
Deputy marshal trainee	Deputy sheriff trainee
Deputy marshal-matron	Custody assistant
Deputy clerk	
Custody officer	
Legal services specialist, marshal	Safety police officer II
Municipal Court Planning and Research	
Chief staff attorney, p & r	Senior deputy county counsel
Assistant chief staff attorney	
Staff attorney II, p & r	
Staff attorney I, p & r	
Legal research assistant	
Planning analyst, p & r	Administrative analyst
Planning analyst aide, p & r	
Senior planning analyst, p & r	Senior administrative analyst
Courtroom Series	
All positions subject to civil service provisions enumerated in Articles 2, 3, and 4 which are not listed in this table.	Superior court clerk
Management Series	
Court administrator, LAMC	Performance-Based Pay Plan
Assistant court administrator, LAMC	
Deputy court administrator, Admin. and Financial Service, LAMC	

Deputy court administrator, Operations, LAMC	
Division chief, Operations, LAMC	
Assistant division chief, Ops., LAMC	
Personnel administrator, M.C.	
Training officer, M.C.	
Chief, Budget & Facility Div., M.C.	
Chief, Acctg. & Auditing Div., M.C.	
Chief, Systems Division, M.C.	
Chief, Mgmt. Info. Systems, M.C.	
Senior program & system analyst	
Court administrator (except Los Angeles Judicial District)	Structure adjustment to the nearest one quarter of one percent approved by the board of supervisors for application to the ranges established for classes assigned to the Performance-Based Pay Plan.
Assistant chief deputy	Administrative analyst
Principal clerk, Los Angeles	Supervising superior court clerk
Personnel-Administrative	Services-Accounting Series
Personnel technician, M.C.	Senior departmental personnel technician
Personnel assistant, M.C.	Departmental personnel assistant
Safety officer, marshal	Safety officer
Senior staff assistant, marshal	Administrative analyst
Staff assistant, marshal	
Principal clerk, marshal	
Executive assistant, presiding judges association	
Principal administrative assistant, M.C.	Administrative assistant III
Senior administrative assistant, M.C.	Administrative assistant II
Administrative assistant, M.C.	Administrative assistant I
Staff assistant, M.C.	Staff assistant I
Statistical analyst	Statistical analyst
Accountant, M.C.	Accountant II
Accounting technician, M.C.	Accounting technician I

Intermediate accountant, M.C.	Intermediate accountant auditor
Senior accountant, M.C.	
Facilities services assistant, M.C.	Facilities services assistant
Facilities planning assistant, M.C.	Facilities planning assistant
Staff development specialist, M.C.	Staff development specialist, D.A.
Account clerk, M.C.	Account clerk II

Secretarial and Stenographic Series

Secretary to presiding judge, Los Angeles Municipal Court Executive secretary, Los Angeles Municipal Court Senior management secretary Management secretary, Los Angeles Municipal Court Executive secretary, marshal	Executive secretary II
Senior secretary II, Los Angeles Municipal Court Management secretary, marshal Senior judicial secretary, Municipal Court Senior secretary III, Municipal Court Senior secretary I, Los Angeles Municipal Court Secretary, marshal Secretary, Los Angeles Municipal Court	Senior secretary II
Senior stenographer, M.C. Stenographer, M.C.	Legal office support assistant II

Clerical Series

Deputy municipal court clerk I Deputy clerk II, marshal Deputy clerk I, marshal Deputy municipal court clerk II	Intermediate typist-clerk

Deputy clerk III, M.C.	
Deputy clerk III, marshal	
Administrative clerk, marshal	
Clerical aide	
Supervising payroll clerk, marshal	Supervising payroll clerk I
Payroll supervisor, M.C.	
Payroll assistant, M.C.	Payroll clerk I
Marshal's dispatcher	Sheriff dispatcher II
Senior payroll assistant, M.C.	Payroll clerk II
Supervising deputy clerk I	Supervising typist clerk

Supply and Duplicating Series

Supply and reproduction supervisor, marshal	Warehouse worker II
Supply and reproduction assistant, marshal	
Stockroom supervisor, municipal court	
Supply clerk, M.C.	Warehouse worker aide
Procurement aide, M.C.	Procurement aide
Light vehicle driver, M.C.	Light vehicle driver

Management Information and Data-Processing Series

Data systems supervisor, M.C.	Data systems supervisor I
Data systems coordinator, M.C.	Data systems coordinator
Data systems analyst I, M.C.	Data systems analyst I
Data systems analyst II, M.C.	Data systems analyst II
Data conversion supervisor I, M.C.	Data conversion supervisor I
Data conversion supervisor III, M.C.	
EDP staff aide, M.C.	Systems aide
Supervising computer operator, M.C.	Supervising computer operator
Computer operations supervisor, M.C.	
Computer equipment operator, M.C.	Computer equipment operator
Computer system operator, M.C.	Computer systems operator

Senior data control clerk, M.C.	Senior data control clerk
Data control clerk, M.C.	Data control clerk
Senior data conversion equipment operator, M.C.	Senior data conversion equipment operator
Data conversion equipment operator	Data conversion equipment operator

All classes of positions approved by a majority of the judges of the municipal court and the board of supervisors for inclusion in the Los Angeles County Performance-Based Pay Plan will be compensated in accordance with the provisions of this plan as set forth in Part 3, Chapter 6.08, of the Los Angeles County Code. All of these provisions are applicable to participants in the Marshal's Department, except that for the marshal, the appointing authority is the muncipal court judges of Los Angeles County, and for all other participants in the marshal's department, the authority is the marshal. For purposes of PBP administration only, the appointing authority for the court administrator, Los Angeles Judicial District, is the court's executive committee. The court administrator, is the appointing authority for all other participants in the Los Angeles Judicial District.

The presiding judge, the immediate past presiding judge (if still a member of the Los Angeles Municipal Court) and the assistant presiding judge will confer with the court administrator to establish new performance goals and evaluate the completion of previously established goals; these judges will then rate the court administrator's performance using the PBP rating categories established in the county code. The presiding judge shall present this rating to the executive committee for ratification at its July meeting. In the event that the executive committee does not act upon the rating, the presiding judge shall forward the rating to the CAO for inclusion in the Los Angeles Municipal Court's Merit Salary Increase Guideline. In the event a rating is not completed, the court administrator's salary will be adjusted in accordance with the Los Angeles Municipal Court Merit Increase Guideline based on a "meets expectations" rating.

Any existing special pay provision applicable to court classes included in PBP and which is expressed in terms of additional schedules of compensation will be converted to a percentage basis in accordance with the county's plan which equates each schedule with 2.75 percent.

Salary adjustments made pursuant to this section shall be on an interim basis and shall be effective only until January 1 of the second year following the year in which the adjustment is made, unless ratified by the Legislature.

Officers and attachés of municipal courts in Los Angeles County shall be entitled to all employee rights, programs and benefits, including, but not limited to, paid medical plans, management incentive, pay for performance, and early separation programs, parking and cafeteria privileges, longevity pay, shooting allowance,

uniform and equipment allowance, and the same rights to meet with those entities which prescribe their compensation, that are provided for or made applicable to the equivalent Los Angeles County and county clerk/superior court employee classification. Participation in management incentive early separation programs and pay for performance shall be established by joint action and approval of a majority of the board of supervisors and a majority of the judges of the court, except in the Los Angeles Judicial District where such joint action shall be approved by a majority of the board of supervisors and a majority of the court's executive committee.

Bonus Level I assignments of deputy marshals are as follows:

Twenty positions—assistant commander, small division

Ten positions—bailiff supervisor

Seven positions—field supervisor

Nine positions—counter deputy

One position—vehicle coordinator

One position—training officer

One position—real estate levy/bookkeeping section supervisor

Bonus Level II assignments of deputy marshals are as follows:

One position—operations bureau deputy

One position—security and intelligence officer

One position—assistant procedures officer

Deputy marshals with Bonus Level I assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level I positions. Deputy marshals with Bonus Level II assignments shall receive additional compensation in the same amounts, for the same periods, and paid on the same terms, as deputy sheriffs assigned to Bonus Level II positions.

In addition to the salary adjustment otherwise provided by this section, persons employed in the classifications of executive secretary, M.C., senior management secretary, M.C., and secretary to the presiding judge shall receive a one-time only two-schedule salary increase effective January 1, 1989. The resulting salary rate shall constitute the base rates for subsequent salary adjustments.

In addition to the salary provided by the applicable performance-based pay provisions, a 16.5 percent bonus shall be paid to no more than one position of deputy court administrator in the Los Angeles Municipal Court who is admitted to practice law before all courts in California and required to render legal opinions and provide legal advice to the court administrator and judges.

Any deputy clerk grade I, II, III or IV who, in addition to a regular courtroom assignment, is required to operate and monitor electronic recording equipment to produce the official record of the court proceedings shall receive a two-schedule increase in compensation while so engaged. However, in no event shall a person who is receiving additional compensation for performing duties involving greater skill and responsibility as described in subdivision (b) of Section 72705 and subdivisions (j), (k), and (*l*) of Section 72755 be

eligible to receive additional compensation pursuant to this subdivision, except for a deputy clerk grade III assigned to the regular duties of a deputy clerk grade IV as provided in subdivision (i) of Section 72755.

SEC. 5. Section 72609 of the Government Code is amended to read:

72609. Except where otherwise provided by law, officers and attachés of municipal courts in Los Angeles County shall receive a monthly salary at a rate specified in the Los Angeles County Code as follows:

Title	Range/ Schedule
Account clerk	47B
Accountant	59E
Accounting technician, municipal court	49K
Administrative assistant, municipal court	51F N.2
Administrative clerk, marshal	53F
Assistant chief deputy clerk, municipal court	68L
Assistant chief staff attorney, planning and research	88C N.W.
Assistant court administrator, L.A.M.C.	R14 N23
Assistant division chief, operations L.A.M.C.	R7 N23
Assistant marshal	R17 N23
Captain, marshal	R12 N23
Chief, accounting and auditing division, M.C.	R9 N23
Chief, budget and facilities division, muni. court..	R9 N23
Chief deputy clerk	67L
Chief deputy clerk (one judge court)	71C
Chief deputy clerk (two judge court)	72C
Chief deputy clerk (three judge court)	73C
Chief deputy clerk (four judge court)	73C
Chief deputy clerk (five judge court)	73C
Chief deputy clerk (six judge court)	74C
Chief deputy clerk (seven judge court)	75C
Chief deputy clerk (eight judge court)	76C
Chief deputy clerk (nine judge court)	77C
Chief deputy clerk (10 judge court)	78C
Chief, management information systems, M.C.	R9 N23
Chief staff attorney, planning and research	92E N.X.
Chief, systems division, municipal court	R10 N23
Clerical aide, municipal court	28G
Commander, marshal	R14 N23
Computer equipment operator	47L
Computer operations supervisor	70C
Computer systems operator	53G
Court administrator (one judge court)	79C
Court administrator (two judge court)	80C
Court administrator (three, four, five judge court)	81C

Court administrator (six judge court)	82C
Court administrator (seven judge court)	83C
Court administrator (eight judge court)	84C
Court administrator (nine judge court)	85C
Court administrator (10, 11, 12 judge court)	86C
Court administrator, Los Angeles Muni. Court	R16 N23
Data control clerk	43H
Data conversion equipment operator I	45C
Data conversion supervisor I	52E
Data conversion supervisor III	61L
Data systems analyst I	66H
Data systems analyst II	69D
Data systems coordinator	71E
Data systems supervisor	71E
Deputy clerk I, marshal	38E
Deputy clerk II, marshal	43H
Deputy clerk III, marshal	49G
Deputy clerk III, municipal court	49G
Deputy clerk IV, municipal court	59K
Deputy clerk-custody officer, marshal	50H
Deputy court administrator, Admin. & Fin. Svc. LAMC	R12 N23
Deputy court administrator, Operations, LAMC	R12 N23
Deputy marshal	67A N.W.
Deputy marshal IV	71A
Deputy marshal matron	55K
Deputy marshal trainee	67A
Deputy municipal court clerk I	43H N3
Deputy municipal court clerk II	46L
Division chief, operations, LAMC	R10 N23
EDP staff aide	52H
Executive assistant to presiding judges association	67B N.4
Executive secretary, municipal court	61G N.3
Executive secretary, marshal	59H N.3
Facilities planning assistant	58H
Facilities services assistant	52H
Head, fiscal and administrative services, marshal	R10 N23
Intermediate accountant	64H
Interpreter	51L
Law clerk	65H
Legal research assistant, planning and research	FH
Legal service specialist, marshal	53B
Lieutenant	83L
Light vehicle driver	39G
Management secretary	53G N.3
Management secretary, marshal	56H N.3
Marshal	R18 N23
Marshal's dispatcher	51E

Municipal court clerk trainee	FM
Payroll assistant, municipal court	48C
Payroll supervisor, municipal court	54C
Personnel administrator, municipal court	R10 N23
Personnel assistant	50L
Personnel technician	67L
Planning analyst aide, planning and research	53E N.2
Planning analyst, planning and research	63L
Principal administrative assistant	64K
Principal clerk, Los Angeles	65J
Principal clerk, marshal	54C
Procurement aide, municipal court	47F
Safety officer, marshal	68A
Secretary, marshal	47G
Secretary, municipal court	45G
Secretary to presiding judge, L.A. Municipal Court	63G N.3
Senior accountant	67E
Senior administrative assistant	60K
Senior data control clerk, municipal court	47F
Senior data conversion equipment operator	49C
Senior judicial secretary, municipal court	52G N.3
Senior management secretary, Los Angeles M.C.	57G N.3
Senior payroll assistant, municipal court	51C
Senior planning analyst, planning and research	67B
Senior program & system analyst	R6 N23
Senior secretary I, municipal court	47G
Senior secretary II, municipal court	49G
Senior secretary III, municipal court	52G N.3
Senior secretary, marshal	51G
Senior staff assistant, marshal	66L
Senior stenographer	55C N.Z.
Sergeant	77G
Special assistant, e.l.a.	78L
Staff assistant, marshal	57B
Staff assistant, municipal court	52E
Staff attorney I, planning and research	67K N.3
Staff attorney II, planning and research	79C N.W.
Staff development specialist, municipal court	64K
Statistical analyst	56L
Stenographer	53C N.3-Z
Stockroom supervisor	51F
Supervising branch clerk	63L
Supervising computer operator, municipal court	60C
Supervising deputy clerk I	53L
Supervising deputy clerk II	61K
Supervising law clerk	67K
Supervising payroll clerk, marshal	54C
Supply and reproduction assistant	44L
Supply clerk, municipal court	45F

Supply and reproduction supervisor	50L
Training officer Los Angeles Municipal Court	R7 N23

The term "schedule" used herein refers to the salary schedule of the Los Angeles County Code. The term "range" used herein refers to the Performance-Based Pay Plan of Los Angeles County.

SEC. 6. Section 72645 of the Government Code is amended to read:

72645. The marshal shall appoint all of the following:

(a) One assistant marshal. The marshal shall make the appointment from the peace officer members of the marshal's office of the rank of lieutenant or higher and the appointee shall serve solely at the pleasure of the marshal. Section 72649 does not apply to the appointment to, nor removal of a person from, this position, but all other provisions of Section 72649 apply. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held by the appointee prior to his or her appointment to the position of assistant marshal.

(b) Three commanders. Upon the occurrence of a vacancy, any succeeding appointment to this position may be made by the marshal at his or her sole discretion. At that time and thereafter, Section 72649 shall not be applicable to the appointment to, nor removal of, a person from, this position, but all other provisions of Section 72649 shall be applicable. The marshal shall make this appointment from the peace officer members of his or her office of the rank of lieutenant or higher, and the appointee shall serve solely at the pleasure of the marshal. Upon removal by the marshal for any reason other than that which would be cause for the discharge of any other member, an appointee shall revert to the rank held prior to appointment as commander.

(c) Nine captains.

(d) Twenty-two lieutenants.

(e) Forty sergeants.

(f) Six hundred seven deputy marshals; except that the number of deputy marshals shall be reduced by the number of deputy marshal IV positions required to be retained pursuant to Section 72645.5.

(g) Twenty-seven deputy marshal trainees. Appointments to the positions shall be made from civil service lists resulting from open competitive examinations, provided that notwithstanding Section 72649, the appointees shall be subject to a 12-month period of probation.

(h) Four deputy marshal-matrons, each of whom shall have completed a course of training which meets the requirements of the POST commission for a specialized law enforcement basic certificate.

(i) Four deputy clerk-custody officers.

(j) Ten legal services specialists, marshal, each of whom shall

receive monthly compensation at the same rate specified for the county's class of security officer II.

SEC. 7. Section 72646 of the Government Code is amended to read:

72646. The marshal shall appoint:

(a) One head, fiscal and administrative services, marshal.

(b) One senior staff assistant, marshal.

(c) One executive secretary, marshal. Appointment to this position shall be at step 3 of the schedule.

(d) Two staff assistants, marshal.

(e) One management secretary, marshal.

(f) Two principal clerks.

(g) One supply and reproduction supervisor, marshal.

(h) Two senior secretaries, marshal.

(i) Ten administrative clerks.

(j) One supervising payroll clerk, marshal.

(k) One supply and reproduction assistant, marshal.

(*l*) Sixty-five deputy clerks, grade III.

(m) Three secretaries, marshal.

(n) Eighty deputy clerks, grade II.

(o) Ten deputy clerks, grade I.

(p) Such deputies who shall be keepers, as may be reasonably required pursuant to law, at the fee allowed by law for keeping property.

(q) Six marshal's dispatchers.

(r) One safety officer, marshal.

SEC. 8. Section 72702.5 of the Government Code is amended to read:

72702.5. The clerk may appoint one deputy clerk who shall be assistant court administrator, one deputy clerk who shall be deputy court administrator, administrative and financial services, and four deputy clerks who shall be deputy court administrators, operations, and that number of legal research assistants as approved by the board of supervisors which positions shall not be deemed civil service positions. The positions of assistant court administrator, deputy court administrator, administrative and financial services, deputy court administrator, operations, legal research assistant, and all positions designated in the Performance-Based Pay Plan for the Los Angeles Municipal Court shall not be deemed civil service positions for any person initially appointed to these positions after November 1, 1987. Incumbents with civil service status as of November 1, 1987, shall retain civil service status. Each person appointed to these positions shall serve at the pleasure of the court administrator.

SEC. 9. Section 72703 of the Government Code is amended to read:

72703. The clerk may appoint:

(a) Four deputy clerks who shall be division chiefs and who shall be assigned as chief, accounting and audit division; chief, budget and facilities division; chief, systems division; and chief, management

information systems division; and an additional five deputy clerks who shall be assigned as division chiefs, operations.

(b) Ten deputy clerks who shall be assistant division chiefs, operations.

(c) Nineteen deputy clerks who shall be principal clerks.

(d) Five deputy clerks who shall be principal administrative assistants, municipal court.

(e) One deputy clerk who shall be personnel administrator, municipal court.

(f) Three deputy clerks who shall be personnel technicians, municipal court.

(g) One deputy clerk who shall be personnel assistant, municipal court.

(h) Three deputy clerks who shall be senior administrative assistants, municipal court.

(i) One deputy clerk, who shall be administrative assistant, municipal court.

(j) One deputy clerk who shall be stockroom supervisor, municipal court.

(k) One deputy clerk who shall be supply clerk, municipal court.

(*l*) One deputy clerk who shall be payroll supervisor, municipal court.

(m) Two deputy clerks who shall be payroll assistants, municipal court.

(n) Two deputy clerks who shall be accounting technicians, municipal court.

(o) Four deputy clerks who shall be staff assistants, municipal court.

(p) One deputy clerk who shall be training officer, municipal court.

(q) Four deputy clerks who shall be accountant municipal court.

(r) Four deputy clerks who shall be intermediate accountants, municipal court.

(s) Three deputy clerks who shall be senior accountants, municipal court.

(t) One deputy clerk who shall be senior payroll assistant.

(u) Seven deputy clerks who shall be account clerks.

SEC. 10. Section 72704 of the Government Code is amended to read:

72704. The clerk may also appoint:

(a) One hundred thirty-four deputy clerks grade IV, plus one additional such deputy clerk for each judge in excess of 84 and each commissioner or traffic referee in excess of 21 to which the court is or may become entitled by law.

(b) One deputy clerk who shall be secretary to presiding judge.

(c) One deputy clerk who shall be executive secretary, Los Angeles Municipal Court.

(d) One deputy clerk who shall be senior management secretary, municipal court.

(e) Fourteen deputy clerks who shall be senior judicial secretaries and who shall receive a monthly salary at the same rate specified for the superior court class of senior judicial secretary. Appointments to the positions shall be at step 3 of the schedule.

(f) Ninety-one deputy clerks grade III.

(g) Twenty deputy clerks, supervising deputy clerks I.

(h) One hundred seventy-nine deputy clerks grade II.

(i) Forty-five deputy clerks grade I.

(j) Five deputy clerks, who shall be senior secretaries II, municipal court.

(k) One deputy clerk who shall be senior secretary I, municipal court.

(*l*) Two deputy clerks who shall be secretaries, municipal court.

(m) Four deputy clerks who shall be management secretaries, municipal court.

(n) Two deputy clerks who shall be facilities services assistants, municipal court.

(o) One deputy clerk who shall be procurement aide, municipal court.

(p) Eighteen deputy clerks who shall be supervising deputy clerks II.

(q) One deputy clerk who shall be facilities planning assistant.

(r) One deputy clerk who shall be light vehicle driver.

(s) One deputy clerk who shall be statistical analyst.

(t) Two deputy clerks who shall be staff development specialists.

(u) One deputy clerk who shall be a municipal court clerk trainee.

SEC. 11. Section 72704.5 of the Government Code is amended to read:

72704.5. The clerk may also appoint:

(a) One deputy clerk who shall be computer operations supervisor.

(b) One deputy clerk who shall be data conversion supervisor III.

(c) Three deputy clerks who shall be data conversion supervisors I.

(d) Nine deputy clerks who shall be senior data conversion equipment operators.

(e) Twenty-five deputy clerks who shall be data conversion equipment operators I.

(f) Eight deputy clerks who shall be data systems analysts II.

(g) Two deputy clerks who shall be data systems analysts I.

(h) One deputy clerk who shall be EDP staff aide.

(i) Two deputy clerks who shall be supervising computer operators.

(j) Two deputy clerks who shall be computer systems operators.

(k) Two deputy clerks who shall be computer equipment operators.

(*l*) One deputy clerk who shall be senior data control clerk.

(m) Two deputy clerks who shall be data control clerks.

(n) Four deputy clerks who shall be data systems coordinators.

(o) Two deputy clerks who shall be data systems supervisors, municipal court.

(p) One deputy clerk who shall be senior program and systems analyst.

SEC. 12. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act is in accordance with the request of a local agency or school district which desired legislative authority to carry out the program specified in this act.

CHAPTER 1198

An act to add Section 421.5 to the Government Code, relating to the official state song.

[Approved by Governor September 21, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that the song "I Love You, California" was originally a poem written by F. B. Silverwood expressing his heartfelt sentiments of his love for California, which was subsequently put to music composed by Alfred Frankenstein, a former conductor for the Los Angeles Symphony Orchestra.

The song was first performed in 1912 by Mary Garden at a concert at the Los Angeles Philharmonic Auditorium and received an encore. It was copyrighted the following year.

"I Love You, California" was the official song of both the San Francisco and San Diego Expositions in 1915, and was performed on the first ship to sail through the Panama Canal.

In 1951 "I Love You, California" was designated as the official state song by Senate Concurrent Resolution No. 29, Resolution Chapter 87, Statutes of 1951.

The song has been under copyright since 1913, and after 75 years, passed this year (1988) into the public domain.

SEC. 2. Section 421.5 is added to the Government Code, to read:

421.5. "I Love You, California," a song published in 1913 with lyrics by F.B. Silverwood and music by A.F. Frankenstein, is an official state song.

CHAPTER 1199

An act to amend Section 2417 of the Civil Code, to amend Sections 153, 166, 353, 385, 580a, 904.1, 1026, 1421, 1441, 1443, 1449, and 1913 of, and to repeal Title 10b (commencing with Section 1700) of Part 3 of, the Code of Civil Procedure, to amend Section 6950 of the Financial Code, to amend Sections 12598, 13944, 27643, and 69503 of, to add Chapter 8.5 (commencing with Section 27430) to Part 3 of Division 2 of Title 3 of, and Section 27444 to, and to repeal Section 29616 of, the Government Code, to amend Section 1289.4 of the Health and Safety Code, to amend Section 100.5 of the Labor Code, to amend Section 1035.05 of the Military and Veterans Code, to repeal Section 653.5 of the Penal Code, to amend Sections 20, 52, 58, 260, 275, 280, 284, 287, 288, 295, 900, 1203, 1215, 1220, 1250, 1252, 2100, 2250, 2320, 2325, 2333, 2430, 2580, 2610, 2616, 2631, 3082, 3918, 6112, 6221.5, 6327, 6527, 6607, 6608, 6803, 6805, 9001, 9002, 9050, 9103, 9253, 9255, 9620, 9704, 10003, 10005, 10301, 10405, 12404, 12408, 13006, 13051, 13052, 13103, 13111, 13112, 13114, 13152, 13154, 13200, 13203, 13501, 13502, 13503, 13550, 13553, 13650, 13655, 13656, 13658, 13659, 15804, 16225, 16304, and 16305 of, to amend and renumber the heading of Division 2.5 (commencing with Section 260) of, to amend and renumber the heading of Chapter 8 (commencing with Section 573) of, the heading of Chapter 15 (commencing with Section 900) of, the heading of Chapter 22 (commencing with Section 1200) of, the heading of Article 1 (commencing with Section 1200) of, the heading of Article 2 (commencing with Section 1215) of, the heading of Article 3 (commencing with Section 1220) of, the heading of Article 4 (commencing with Section 1230) of, the heading of Article 5 (commencing with Section 1240) of, the heading of Article 6 (commencing with Section 1250) of, and the heading of Article 7 (commencing with Section 1260) of, Chapter 22 of, Division 3 of, to add Sections 3, 39, 45, 81, 1210, 6104, 6105, 6154, 6179, 9605, 9614, 16314, and 16315 to, to add Part 9 (commencing with Section 300) to, Part 11 (commencing with Section 350) to, Part 12 (commencing with Section 400) to, and Part 13 (commencing with Section 550) to, Division 2 of, Division 3 (commencing with Section 1000) to, Part 5 (commencing with Section 2900) to Division 4 of, Part 1 (commencing with Section 7000) to, Part 2 (commencing with Section 8000) to, Part 3 (commencing with Section 8800) to, Chapter 8 (commencing with Section 9350) to Part 4 of, Part 8 (commencing with Section 10900) to, Part 10 (commencing with Section 11600) to, Part 11 (commencing with Section 12200) to, and Part 13 (commencing with Section 12500) to, Division 7 of, and to add Part 4 (commencing with Section 21400) to Division 11 of, to repeal Sections 261, 268, 270, 2523, 9257, 9863, 17208, and 21100 of, to repeal Chapter 1 (commencing with Section 300) of, Chapter 2 (commencing with Section 370) of, Chapter 3 (commencing with Section 400) of, Chapter 4 (commencing with Section 420) of, Chapter 5 (commencing with Section 460) of, Chapter 6

(commencing with Section 480) of, Chapter 7 (commencing with Section 540) of, Chapter 9 (commencing with Section 600) of, Chapter 11 (commencing with Section 660) of, Chapter 12 (commencing with Section 707) of, Chapter 13 (commencing with Section 750) of, Article 3 (commencing with Section 920) and Article 4 (commencing with Section 956) of Chapter 15 of, Chapter 16 (commencing with Section 1000) of, Chapter 17 (commencing with Section 1080) of, Chapter 18 (commencing with Section 1100) of, Chapter 20 (commencing with Section 1140) of, Chapter 21 (commencing with Section 1190) of, Chapter 22.5 (commencing with Section 1280) of, and Chapter 23 (commencing with Section 1300) of, Division 3 of, and to repeal the heading of Division 3 (commencing with Section 300) of, the heading of Part 1 of, the heading of Part 2 of, the heading of Part 3 of, the heading of Part 10 of, the heading of Part 11 of, Division 7 of, the heading of Chapter 1 (commencing with Section 21100), and the heading of Chapter 2 (commencing with Section 21120) of Part 1 of Division 11 of, the Probate Code, to amend Section 480 of the Revenue and Taxation Code, and to amend the heading of Chapter 1 (commencing with Section 8000) of Division 8 of, and to repeal Sections 8000, 8001, 8002, 8003, 8004, 8005, 8006, 8006.5, 8007, 8008, 8009, 8010, 8011, 8012, 8013, and 8015 of, the Welfare and Institutions Code, relating to probate law and procedure.

[Approved by Governor September 22, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 2417 of the Civil Code is amended to read:

2417. (a) Upon the filing of a petition under this article, the clerk shall set the petition for hearing.

(b) At least 30 days before the time set for hearing, the petitioner shall serve notice of time and place of the hearing, together with a copy of the petition, on all of the following:

(1) The attorney in fact if not the petitioner.

(2) The principal if not the petitioner.

(3) Any other persons the court in its discretion requires.

(c) Service shall be made by mailing to the last known address of the person required to be served unless the court in its discretion requires that notice be served in some other manner. Personal delivery is the equivalent of mailing.

(d) Proof of compliance with subdivisions (b) and (c) shall be made at or before the hearing. If it appears to the satisfaction of the court that the notice has been given as required, the court shall so find in its order, and the order, when it becomes final, is conclusive on all persons.

(e) Proceedings under this article shall be governed, whenever possible, by the provisions of this article, and where the provisions of

this article do not appear applicable, the provisions of Division 7 (commencing with Section 7000) of the Probate Code shall apply.

(f) The court for good cause may shorten the time required for the performance of any act required by this section.

(g) In a proceeding under this article commenced by the filing of a petition by a person other than the attorney in fact, the court may in its discretion award reasonable attorney's fees to:

(1) The attorney in fact if the court determines that the proceeding was commenced without any reasonable cause.

(2) The person commencing the proceeding if the court determines that the attorney in fact has clearly violated the fiduciary duties under the power of attorney or has failed without any reasonable cause or justification to submit accounts or report acts to the principal or conservator of the estate or of the person, as the case may be, after written request from the principal or conservator.

(h) With respect to a durable power of attorney for health care, the court in its discretion, upon a showing of good cause, may issue a temporary order prescribing the health care of the principal until the disposition of the petition filed under Section 2412.5. If a durable power of attorney for health care is in effect and a conservator (including a temporary conservator) of the person is appointed for the principal, the court that appoints the conservator in its discretion, upon a showing of good cause, may issue a temporary order prescribing the health care of the principal, that order to continue in effect for such time as is ordered by the court but in no case longer than the time necessary to permit the filing and determination of a petition filed under Section 2412.5.

SEC. 2. Section 153 of the Code of Civil Procedure is amended to read:

153. Except as otherwise expressly provided by law, the seal of a court need not be affixed to any proceeding therein, or to any document, except to the following:

(a) A writ.

(b) A summons.

(c) A warrant of arrest.

SEC. 3. Section 166 of the Code of Civil Procedure is amended to read:

166. (a) The judge or judges of the superior, municipal and justice courts may, in chambers, in the matters within the jurisdiction of their respective courts:

(1) Grant all orders and writs which are usually granted in the first instance upon an ex parte application, and hear and dispose of those orders and writs, appoint referees, require and receive inventories and accounts to be filed, order notice of settlement of supplemental accounts, suspend the powers of personal representatives, guardians, or conservators in the cases allowed by law, appoint special administrators, grant letters of temporary guardianship or conservatorship, approve or reject claims, and direct the issuance from the court of all writs and process necessary in the exercise of

their powers in matters of probate.

(2) Hear and determine all motions made pursuant to Section 657 or 663.

(3) Hear and determine all uncontested actions, proceedings, demurrers, motions, petitions, applications, and other matters pending before the court other than actions for dissolution of marriage, for legal separation, or for a judgment of nullity of the marriage, and except also applications for confirmation of sale of real property in probate proceedings.

(4) Hear and determine motions to tax costs of enforcing a judgment.

(5) Approve bonds and undertakings.

(b) A judge may, out of court, anywhere in the state, exercise all the powers and perform all the functions and duties conferred upon a judge as contradistinguished from the court, or which a judge may exercise or perform in chambers.

SEC. 4. Section 353 of the Code of Civil Procedure is amended to read:

353. (a) If a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by the person's representatives, after the expiration of that time, and within six months from the person's death.

(b) Except as provided in subdivision (c), if a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced against the person's representatives, after the expiration of that time, and within one year after the date of death.

(c) If a person against whom an action may be brought died before July 1, 1988, and before the expiration of the time limited for the commencement of the action, and the cause of action survives, an action may be commenced against the person's representatives before the expiration of the later of the following times:

(1) July 1, 1989, or one year after the issuing of letters testamentary or of administration, whichever is the earlier time.

(2) The time limited for the commencement of the action.

SEC. 5. Section 385 of the Code of Civil Procedure is amended to read:

385. An action or proceeding does not abate by the death, or any disability of a party, or by the transfer of any interest therein, if the cause of action survives or continues. In case of the death or any disability of a party, the court, on motion, may allow the action or proceeding to be continued by or against his or her representative or successor in interest. In case of any other transfer of interest, the action or proceeding may be continued in the name of the original party, or the court may allow the person to whom the transfer is made to be substituted in the action or proceeding.

SEC. 6. Section 580a of the Code of Civil Procedure is amended

to read:

580a. Whenever a money judgment is sought for the balance due upon an obligation for the payment of which a deed of trust or mortgage with power of sale upon real property or any interest therein was given as security, following the exercise of the power of sale in such deed of trust or mortgage, the plaintiff shall set forth in his or her complaint the entire amount of the indebtedness which was secured by the deed of trust or mortgage at the time of sale, the amount for which the real property or interest therein was sold and the fair market value thereof at the date of sale and the date of that sale. Upon the application of either party made at least 10 days before the time of trial the court shall, and upon its own motion the court at any time may, appoint one of the probate referees provided for by law to appraise the property or the interest therein sold as of the time of sale. The referee shall file his or her appraisal with the clerk and that appraisal shall be admissible in evidence. The referee shall take and subscribe an oath to be attached to the appraisal that he or she has truly, honestly and impartially appraised the property to the best of his or her knowledge and ability. Any referee so appointed may be called and examined as a witness by any party or by the court itself. The court must fix the compensation of the referee in an amount as determined by the court to be reasonable, but those fees shall not exceed similar fees for similar services in the community where the services are rendered, which may be taxed and allowed in like manner as other costs. Before rendering any judgment the court shall find the fair market value of the real property, or interest therein sold, at the time of sale. The court may render judgment for not more than the amount by which the entire amount of the indebtedness due at the time of sale exceeded the fair market value of the real property or interest therein sold at the time of sale with interest thereon from the date of the sale; provided, however, that in no event shall the amount of the judgment, exclusive of interest after the date of sale, exceed the difference between the amount for which the property was sold and the entire amount of the indebtedness secured by the deed of trust or mortgage. Any such action must be brought within three months of the time of sale under the deed of trust or mortgage. No judgment shall be rendered in any such action until the real property or interest therein has first been sold pursuant to the terms of the deed of trust or mortgage, unless the real property or interest therein has become valueless.

SEC. 7. Section 904.1 of the Code of Civil Procedure is amended to read:

904.1. An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h) and (i), (2) a judgment of contempt which is made final and conclusive by Section 1222, (3) a judgment on appeal from a municipal court or a justice court or a small claims court, or (4) a judgment granting or denying a petition

for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant or dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment, order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order made appealable by the provisions of the Probate Code.

SEC. 8. Section 1026 of the Code of Civil Procedure is amended to read:

1026. (a) Except as provided in subdivision (b), in an action prosecuted or defended by a personal representative, trustee of an express trust, guardian, conservator, or a person expressly authorized by statute, costs may be recovered as in an action by or against a person prosecuting or defending in the person's own right.

(b) Costs allowed under subdivision (a) shall, by the judgment, be made chargeable only upon the estate, fund, or party represented, unless the court directs the costs to be paid by the fiduciary personally for mismanagement or bad faith in the action or defense.

SEC. 9. Section 1421 of the Code of Civil Procedure is amended to read:

1421. Whenever the Attorney General is informed that any estate has escheated or is about to escheat to the state, or that the property involved in any action or special proceeding has escheated or is about to escheat to the state, the Attorney General may commence an action on behalf of the state to determine its rights to the property or may intervene on its behalf in any action or special proceeding affecting the estate and contest the rights of any claimant or claimants thereto. The Attorney General may also apply to the superior court or any judge thereof for an order directing the county

treasurer to deposit in the State Treasury all money, and to deliver to the Controller for deposit in the State Treasury, all other personal property, in the possession of the county treasurer, which may become payable to the State Treasury pursuant to Section 7643 of the Probate Code.

SEC. 10. Section 1441 of the Code of Civil Procedure is amended to read:

1441. Money or other property distributed to the state under Chapter 6 (commencing with Section 11900) of Part 10 of Division 7 of the Probate Code, if not claimed within five years from the date of the order for distribution, as provided in Chapter 3, is permanently escheated to the state without further proceeding; saving, however, to infants and persons of unsound mind, the right to appear and file their claims within the time limited, or within one year after their respective disabilities cease; provided, however, that any such property shall be conclusively presumed to be permanently escheated to the state as to all persons in favor of a purchaser in good faith and for a valuable consideration from the state and anyone subsequently claiming under that purchaser, saving however, to infants and persons of unsound mind the right of recourse to the proceeds of any sale or other disposition of that property by the state and as herein provided.

SEC. 11. Section 1443 of the Code of Civil Procedure is amended to read:

1443. Notwithstanding any other provision of law, all money or other property paid or delivered to the state or any officer or employee thereof under the provisions of Section 7643 or 11428, Chapter 6 (commencing with Section 11900) of Part 10 of Division 7, or Section 6800, of the Probate Code, or under any other section of the Probate Code, or any amendment thereof adopted after the effective date of this section, shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of, as provided in this title.

SEC. 12. Section 1449 of the Code of Civil Procedure is amended to read:

1449. Notwithstanding any other provision of law, all presumptively abandoned money or other property paid or delivered to the Treasurer or Controller under the provisions of Section 7644 of the Probate Code shall be deemed to be paid or delivered for deposit in the State Treasury under the provisions of this article, and shall be transmitted, received, accounted for, and disposed of as provided in this title.

SEC. 12.5. Title 10b (commencing with Section 1700) of Part 3 of the Code of Civil Procedure is repealed.

SEC. 13. Section 1913 of the Code of Civil Procedure is amended to read:

1913. (a) Subject to subdivision (b), the effect of a judicial record of a sister state is the same in this state as in the state where

it was made, except that it can only be enforced in this state by an action or special proceeding.

(b) The authority of a guardian, conservator, or committee, or of a personal representative, does not extend beyond the jurisdiction of the government under which that person was invested with authority, except to the extent expressly authorized by statute.

SEC. 14. Section 6950 of the Financial Code is amended to read:

6950. (a) When a savings account is held in any association or federal association by a person who dies while domiciled in a sister state or foreign nation, the account, together with additions and interest, or any part of it, shall be exempt from any taxation otherwise imposed by this state.

(b) When a savings account is held in any association or federal association by a person who dies while domiciled in a sister state, the account, together with additions and interest, or any part of it, shall be paid to the sister state personal representative or other claimant under the Probate Code, provided the personal representative or other claimant has furnished the association or federal association with all of the documentation required under applicable provisions of the Probate Code and evidence of ownership of the account, if any, issued under Section 6652.

(c) Upon payment or delivery to the personal representative or other claimant after receipt of the documents specified in subdivision (b), the association or federal association is released and discharged to the same extent as if the payment or delivery had been made to a legally qualified local personal representative, and is not required to account for the application or disposition of the property.

SEC. 15. Section 12598 of the Government Code is amended to read:

12598. (a) The primary responsibility for supervising charitable trusts in California, for insuring compliance with trusts and articles of incorporation, and for protection of assets held by charitable trusts and public benefit corporations, resides in the Attorney General. The Attorney General has broad powers under common law and California statutory law to carry out these charitable trust enforcement responsibilities. These powers include, but are not limited to, charitable trust enforcement actions under all of the following:

(1) This article.

(2) Title 8 (commencing with Section 2223) of Part 4 of Division 3 of the Civil Code.

(3) Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code.

(4) Sections 8111, 11703, 15004, 15409, 15680 to 15685, 16060 to 16062, 16064, and 17200 to 17210, inclusive, of the Probate Code.

(5) Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code, and Sections 17500 and 17535 of the Business and Professions Code.

(6) Sections 319, 326.5, and 532d of the Penal Code.

(b) The Attorney General shall be entitled to recover from defendants named in a charitable trust enforcement action all actual costs incurred in conducting that action, including the costs of auditors, consultants, and experts employed or retained to assist with the investigation, preparation, and presentation in court of the charitable trust enforcement action.

(c) Costs shall be recovered by the Attorney General pursuant to court order. At the time of entering judgment or approving settlement of a charitable trust enforcement action, as defined in subdivision (a), the court shall make findings on whether the Attorney General's action has resulted in pecuniary benefits or corrected a breach of trust for any charitable organization, or charitable purpose. If the court finds in the affirmative, the court shall award recovery of costs in the charitable trust enforcement action to the Attorney General and shall order that costs be paid by the charitable organization and the individuals named as defendants in or otherwise subject to the action, in a manner that the court finds to be equitable and fair. The court shall not award costs pursuant to this subdivision which exceed one-third of the pecuniary benefit to any charitable organization or charitable purpose realized by the Attorney General's action.

(d) All moneys received by the Department of Justice pursuant to this section shall be deposited into the General Fund and shall be used to offset the costs of future charitable trust enforcement actions by the Attorney General.

(e) Upon a finding by the court that a lawsuit filed by the Attorney General was frivolous or brought in bad faith, the court may award the defendant charity the costs of that action.

SEC. 16. Section 13944 of the Government Code is amended to read:

13944. (a) The board may investigate, inquire, and, if necessary, conduct hearings concerning property in the possession of the Treasurer which has escheated to the state from the estates of deceased persons pursuant to a judgment of escheat or pursuant to a distribution to the state under Section 11900 of the Probate Code.

(b) After investigation, inquiry, and hearing, the board may relieve the Treasurer from any liability arising from the possession of, and direct the Controller to sell, or authorize the Treasurer to destroy or otherwise dispose of, any such property as it deems proper.

SEC. 17. Chapter 8.5 (commencing with Section 27430) is added to Part 3 of Division 2 of Title 3 of the Government Code, to read:

CHAPTER 8.5. PUBLIC GUARDIAN

27430. (a) In any county the board of supervisors may by ordinance create the office of public guardian and subordinate positions which may be necessary and fix compensation therefor.

(b) The board of supervisors may by ordinance terminate the

office of public guardian.

27431. (a) The board of supervisors may appoint a public guardian to fill the office and provide for appointment to the subordinate positions.

(b) In appointing the public guardian, the board of supervisors may give preference to the person or agency providing public guardian services in each county. No person or agency shall be designated as public guardian whose agency functions present real conflict with the functions of conservatorship investigation or administration.

27432. (a) The board of supervisors may by ordinance designate that the public administrator is ex officio public guardian.

(b) If the board of supervisors has not designated the public administrator as ex officio public guardian, but has appointed another public guardian, it may terminate the appointment and may by ordinance designate that the public administrator is ex officio public guardian and all authority vests in the successor.

(c) If the public administrator has been designated ex officio public guardian, the board of supervisors may by ordinance terminate the designation and appoint another public guardian and all authority vests in the successor.

27433. The authority of the public guardian or ex officio public guardian ceases upon the termination of his or her tenure in office as public guardian or ex officio public guardian and his or her authority vests in his or her successor. If letters have been issued to "the public guardian" of the county, the letters are sufficient to authorize action by the successor and new letters need not be issued.

27434. The public guardian shall give an official bond in an amount fixed, from time to time, by the board of supervisors. The bond shall be for the joint benefit of the guardianship or conservatorship estates and the county. The public guardian may not be required to give a bond in an individual estate.

27435. (a) Necessary expenses of the public guardian in the conduct of any guardianship or any conservatorship estate may be advanced by the county. If so ordered by the board of supervisors, those expenses are a county charge, but the county shall be reimbursed therefor out of funds or property of the estate by the public guardian as soon as, and to the extent that, funds or property become available.

(b) As a means of advancing necessary expenses of a public guardian, the county board of supervisors may establish a revolving fund to be used by the public guardian. The revolving fund shall be established pursuant to Article 7 (commencing with Section 29460) of Chapter 2 of Division 3 of Title 3.

27436. The board of supervisors may designate who shall be authorized as public representative payee, and designate the public guardian to collect any fees authorized by the board of supervisors for public representative payee services.

SEC. 18. Section 27444 is added to the Government Code, to read:

27444. The authority of the public administrator ceases upon termination of his or her tenure in the office of public administrator, and his or her authority vests in the successor in the office of public administrator. If letters have been issued to "the public administrator" of the county, the letters are sufficient to authorize action by the successor and new letters need not be issued.

SEC. 19. Section 27643 of the Government Code is amended to read:

27643. The board of supervisors may by ordinance require that the county counsel shall act as attorney for the public administrator in all estates in which he or she is executor, administrator with the will annexed, or administrator, where he or she has priority for appointment as established by law, including all cases under Section 7660 of the Probate Code. However, in the case of a noncharter county or a charter county where there is no conflict with the county charter, the public administrator may employ private counsel (a) in those estates in which he or she is nominated and would not otherwise have priority, (b) for those estates in which he or she is appointed administrator with the will annexed, or administrator pursuant to Chapter 4 (commencing with Section 8400) of Division 7 of the Probate Code, and (c) in those estates in which he or she is appointed administrator with the will annexed for the reason the executor nominated in the will has refused to serve. In those matters where the county counsel furnishes representation the county counsel shall collect the attorney's fees allowed by law and pay them into the county treasury.

SEC. 20. Section 29616 of the Government Code is repealed.

SEC. 21. Section 69503 of the Government Code is amended to read:

69503. (a) Notwithstanding any other provision of law relating to the destruction of court records, after complying with the requirements of subdivisions (c) and (d), the county clerk may cause to be destroyed any documents, records, instruments, books, depositions, transcripts, or other papers filed in any action or proceeding in the superior court or otherwise filed in his or her office pursuant to law, if the action or proceeding in which the papers were filed is not pending or on appeal in any court and any of the following events have occurred:

(1) The dismissal of the entire action has been entered.

(2) A period of three years has elapsed since a deposition or a transcript of a preliminary hearing or coroner's inquest was filed.

(3) A period of five years has elapsed since the papers in a domestic relations action or proceeding were filed.

(4) A period of five years has elapsed since the papers in any other action or proceeding were filed.

(b) Notwithstanding any other provision of law relating to the destruction of court records, after complying with the requirements of subdivision (c), the county clerk may cause to be destroyed any will delivered to him or her pursuant to Section 8200 of the Probate

Code, if a period of eight years has elapsed since the delivery of the will.

(c) The county clerk shall maintain for the use of the public a microphotographic film print or copy of each will, document, record, instrument, book, deposition, transcript, or other paper so destroyed, prepared pursuant to the procedure specified in Sections 1531 and 1551 of the Evidence Code. The county clerk shall promptly seal and store at least one original negative of each microphotographic film print or copy in a manner and place that reasonably assures its preservation indefinitely against loss, theft, defacement, or destruction.

(d) The county clerk may microfilm only the documents listed below, which microfilm shall be permanently retained. Documents not listed may be destroyed pursuant to subdivision (a) or (b), except for criminal, probate, and adoption records which shall be microfilmed prior to their destruction.

(1) Domestic relations:

(A) Petitions for dissolution, legal separation, or nullity.

(B) Interlocutory judgments of dissolution.

(C) Final judgments of dissolution, legal separation, or nullity.

(D) Any orders or modifications signed by a judge which amend the interlocutory or final judgment.

(E) Financial declarations.

(F) Petitions to establish paternity and orders establishing paternity.

(G) Confessions of judgment.

(H) Reciprocal support documents.

(I) Minute orders.

(2) Civil:

(A) All civil complaints, cross-complaints, petitions, responses, orders signed by a judge, judgments, offer to compromise, order to compromise, and bank deposit and withdrawal records.

(B) Dismissal orders.

(C) Satisfactions of judgment.

(D) Confessions of judgment.

(E) Requests for default.

(F) Minute orders.

(G) Stipulated judgments.

SEC. 22. Section 1289.4 of the Health and Safety Code is amended to read:

1289.4. A theft and loss program shall be implemented by the long-term health care facilities within 90 days after January 1, 1988. The program shall include all of the following:

(a) Establishment and posting of the facility's policy regarding theft and investigative procedures.

(b) Orientation to the policies and procedures for all employees within 90 days of employment.

(c) Documentation of lost and stolen patient property with a value of twenty-five dollars ($25) or more and, upon request, the

documented theft and loss record for the past 12 months shall be made available to the State Department of Health Services, the county health department, or law enforcement agencies and to the office of the State Long-Term Care Ombudsman in response to a specific complaint. The documentation shall include, but not be limited to, the following:

(1) A description of the article.

(2) Its estimated value.

(3) The date and time the theft or loss was discovered.

(4) If determinable, the date and time the loss or theft occurred.

(5) The action taken.

(d) A written patient personal property inventory is established upon admission and retained during the resident's stay in the long-term health care facility. A copy of the written inventory shall be provided to the resident or the person acting on the resident's behalf. Subsequent items brought into or removed from the facility shall be added to or deleted from the personal property inventory by the facility at the written request of the resident, the resident's family, a responsible party, or a person acting on behalf of a resident. The facility shall not be liable for items which have not been requested to be included in the inventory or for items which have been deleted from the inventory. A copy of a current inventory shall be made available upon request to the resident, responsible party, or other authorized representative. The resident, resident's family, or a responsible party may list those items which are not subject to addition or deletion from the inventory, such as personal clothing or laundry, which are subject to frequent removal from the facility.

(e) Inventory and surrender of the resident's personal effects and valuables upon discharge to the resident or authorized representative in exchange for a signed receipt.

(f) Inventory and surrender of personal effects and valuables following the death of a resident to the authorized representative in exchange for a signed receipt. Immediate notice to the public administrator of the county upon the death of a resident without known next of kin as provided in Section 7600.5 of the Probate Code.

(g) Documentation, at least semiannually, of the facility's efforts to control theft and loss, including the review of theft and loss documentation and investigative procedures and results of the investigation by the administrator and, when feasible, the resident council.

(h) Establishment of a method of marking, to the extent feasible, personal property items for identification purposes upon admission and, as added to the property inventory list, including engraving of dentures and tagging of other prosthetic devices.

(i) Reports to the local law enforcement agency within 36 hours when the administrator of the facility has reason to believe patient property with a then current value of one hundred dollars ($100) or more has been stolen. Copies of those reports for the preceding 12 months shall be made available to the State Department of Health

Services and law enforcement agencies.

(j) Maintenance of a secured area for patients' property which is available for safekeeping of patient property upon the request of the patient or the patient's responsible party. Provide a lock for the resident's bedside drawer or cabinet upon request of and at the expense of the resident, the resident's family, or authorized representative. The facility administrator shall have access to the locked areas upon request.

(k) A copy of this section and Sections 1289.3 and 1289.5 is provided by a facility to all of the residents and their responsible parties, and, available upon request, to all of the facility's prospective residents and their responsible parties.

(*l*) Notification to all current residents and all new residents, upon admission, of the facility's policies and procedures relating to the facility's theft and loss prevention program.

SEC. 22.5. Section 100.5 of the Labor Code is amended to read:

100.5. Preferred claims for work performed or personal services rendered are provided for in Sections 1204, 1205, 1206, 1207, and 1208 of the Code of Civil Procedure, and Part 9 (commencing with Section 11400) of Division 7 of the Probate Code.

SEC. 23. Section 1035.05 of the Military and Veterans Code is amended to read:

1035.05. (a) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, first be paid to the manager for payment of funeral expenses or any obligation owed to the home remaining unpaid after the disbursement required by Section 1035 is completed; and second, in the absence of an heir or heirs or a will, pass and descend to and become the property of the Veterans' Home of California for credit to the post fund thereof. If the total value of that property in the state over and above any amounts due the veteran for services in the armed forces of the United States or from any other employment does not exceed three thousand dollars ($3,000), the home may, without procuring letters of administration, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of the property or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive the money or property or to have the evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge that person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. But that payment or transfer shall not preclude administration when necessary to enforce payment of the decedent's debts, and the

manager may, upon proof deemed by him or her to be sufficient, pay the debts directly and without administration.

This subdivision shall apply only to veterans becoming members of the home on or after January 1, 1984.

(b) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, in the absence of a spouse, children, grandchildren, or father or mother, pass and descend to and become the property of the Veterans' Home of California for credit to the post fund thereof. If the total value of that property in the State of California over and above any amounts due the veteran for services in the armed forces of the United States or from any other employment does not exceed three thousand dollars ($3,000), the home may, without procuring letters of administration or awaiting probate of any will, collect any money due the decedent, receive the property of the decedent and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of that property or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive that money or property or to have those evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge the person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. But that payment or transfer shall not preclude administration when necessary to enforce payment of the decedent's debts, and the manager may, upon proof deemed by him or her to be sufficient, pay those debts directly and without administration.

This subdivision shall apply only to veterans who have become members of the home prior to January 1, 1984.

(c) For the purpose of application to this section of the provisions of the Probate Code governing distribution of property, the home shall be deemed to be a beneficiary of the decedent.

SEC. 23.5. Section 1035.05 of the Military and Veterans Code is amended to read:

1035.05. (a) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, first be paid to the administrator for payment of funeral expenses or any obligation owed to the home remaining unpaid after the disbursement required by Section 1035 is completed; and second, in the absence of an heir or heirs or a will, pass and descend to and become the property of the home for credit to the post fund. If the total value of that property in the state over and above any amounts due the veteran for services in the armed forces of the United States or from any other employment does not exceed three thousand dollars ($3,000), the home may, without

procuring letters of administration, collect any money due the decedent, receive the property of the decedent, and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of the property, or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive the money or property or to have the evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge that person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, that payment or transfer does not preclude administration when necessary to enforce payment of the decedent's debts, and the administrator may, upon proof determined to be sufficient, pay the debts directly and without administration.

This subdivision applies only to veterans becoming members of the home on or after January 1, 1984.

(b) All moneys and other personal property of any veteran other than that described in Section 1035 shall, upon the death of the veteran, in the absence of a spouse, children, grandchildren, or father or mother, pass and descend to and become the property of the home for credit to the post fund. If the total value of that property in the State of California over and above any amounts due the veteran for services in the armed forces of the United States or from any other employment does not exceed three thousand dollars ($3,000), the home may, without procuring letters of administration or awaiting probate of any will, collect any money due the decedent, receive the property of the decedent and have any evidences of interest, indebtedness, or right transferred to it upon furnishing the person, representative, corporation, official, or body owning the money, having custody of that property, or acting as registrar or transfer agent of the evidence of that interest, indebtedness, or right, with an affidavit showing the right of the home to receive that money or property or to have those evidences transferred. The receipt of the home shall constitute sufficient acquittance for any payment of money or delivery of property made pursuant to this section and shall fully discharge the person, representative, corporation, officer, or body from any further liability with reference thereto, without the necessity of inquiring into the truth of any of the facts stated in the affidavit. However, the payment or transfer does not preclude administration when necessary to enforce payment of the decedent's debts, and the administrator may, upon proof determined to be sufficient, pay those debts directly and without administration.

This subdivision shall apply only to veterans who have become members of the home prior to January 1, 1984.

(c) For the purpose of application to this section of the provisions of the Probate Code governing distribution of property, the home shall be deemed to be a beneficiary of the decedent.

SEC. 24. Section 653.5 of the Penal Code is repealed.

SEC. 24.5. Section 3 is added to the Probate Code, to read:

3. (a) As used in this section:

(1) "New law" means a change in this code, whether effectuated by amendment, addition, or repeal of any provision of this code.

(2) "Old law" means the applicable law in effect before the operative date of the new law.

(3) "Operative date" means the operative date of the new law.

(b) This section governs the application of the new law except to the extent otherwise expressly provided in the new law.

(c) Subject to the limitations provided in this section, the new law applies on the operative date to all matters governed by the new law, regardless of whether an event occurred or circumstance existed before, on, or after the operative date, including, but not limited to, creation of a fiduciary relationship, death of a person, commencement of a proceeding, making of an order, or taking of an action.

(d) If a petition, account, report, inventory, appraisal, or other document or paper is filed before the operative date, the contents, execution, and notice thereof are governed by the old law and not by the new law; but any subsequent proceedings taken after the operative date concerning the petition, account, report, inventory, appraisal, or other document or paper, including an objection or response, a hearing, an order, or other matter relating thereto is governed by the old law and not by the new law.

(e) If an order is made before the operative date, including an order appointing a personal representative, guardian, conservator, trustee, probate referee, or any other fiduciary or officer, or any action on an order is taken before the operative date, the validity of the order or action is governed by the old law and not by the new law. Nothing in this subdivision precludes proceedings after the operative date to modify an order made, or alter a course of action commenced, before the operative date to the extent proceedings for modification of an order or alteration of a course of action of that type are otherwise provided in the new law.

(f) No personal representative, guardian, conservator, trustee, probate referee, or any other fiduciary, officer, or person is liable for any action taken before the operative date that was proper at the time the action was taken, even though the action would be improper if taken on or after the operative date, and such a person has no duty, as a result of the enactment of the new law, to take any step to alter the course of action or its consequences.

(g) If the new law does not apply to a matter that occurred before the operative date, the old law continues to govern the matter notwithstanding its repeal by the new law.

(h) If a party shows, and the court determines, that application of

a particular provision of the new law or of the old law in the manner required by this section or by the new law would substantially interfere with the effective conduct of the proceedings or the rights of the parties or other interested persons in connection with an event that occurred or circumstance that existed before the operative date, the court may, notwithstanding this section or the new law, apply either the new law or the old law to the extent reasonably necessary to mitigate the substantial interference.

SEC. 25. Section 20 of the Probate Code is amended to read:

20. (a) Unless the provision or context otherwise requires and except as provided in subdivision (b), the definitions in this part govern the construction of this code.

(b) The definitions in this part do not apply to Division 4 (commencing with Section 1400) or Division 5 (commencing with Section 5100).

SEC. 25.2. Section 39 is added to the Probate Code, to read:

39. "Fiduciary" means personal representative, trustee, guardian, conservator, or other legal representative.

SEC. 25.4. Section 45 is added to the Probate Code, to read:

45. "Instrument" means a will, trust, deed, or other writing that designates a beneficiary or makes a donative transfer of property.

SEC. 26. Section 52 of the Probate Code is amended to read:

52. "Letters":

(a) As used in Division 7 (commencing with Section 7000), means letters testamentary, letters of administration, letters of administration with the will annexed, or letters of special administration.

(b) As it relates to a guardian or conservator, means letters of guardianship or conservatorship or temporary guardianship or conservatorship.

SEC. 27. Section 58 of the Probate Code is amended to read:

58. (a) "Personal representative" means executor, administrator, administrator with the will annexed, special administrator, successor personal representative, or a person who performs substantially the same function under the law of another jurisdiction governing the person's status.

(b) "General personal representative" excludes a special administrator unless the special administrator has the powers, duties, and obligations of a general personal representative under Section 8545.

SEC. 27.5. Section 81 is added to the Probate Code, to read:

81. "Transferor" means the testator, settlor, grantor, owner, or other person who executes an instrument.

SEC. 28. The heading of Division 2.5 (commencing with Section 260) of the Probate Code is amended and renumbered to read:

PART 8. DISCLAIMER OF TESTAMENTARY AND OTHER INTERESTS

CHAPTER 1. DEFINITIONS

SEC. 29. Section 260 of the Probate Code is amended to read:

260. Unless the provision or context otherwise requires, the words and phrases defined in this chapter govern the construction of this part.

SEC. 30. Section 261 of the Probate Code is repealed.

SEC. 31. Section 268 of the Probate Code is repealed.

SEC. 32. Section 270 of the Probate Code is repealed.

SEC. 33. Section 275 of the Probate Code is amended to read:

275. A beneficiary may disclaim any interest, in whole or in part, by filing a disclaimer as provided in this part.

SEC. 34. Section 280 of the Probate Code is amended to read:

280. (a) A disclaimer shall be filed with any of the following:

(1) The superior court in the county in which the estate of the decedent is administered or, if there is no administration of the decedent's estate, the superior court in any county in which administration of the estate of the decedent would be proper.

(2) The trustee, personal representative, other fiduciary, or person responsible for distributing the interest to the beneficiary.

(3) Any other person having custody or possession of or legal title to the interest.

(4) The creator of the interest.

(b) If a disclaimer made pursuant to this part affects real property or an obligation secured by real property and the disclaimer is acknowledged and proved in like manner as a grant of real property, the disclaimer may be recorded in like manner and with like effect as a grant of real property, and all statutory provisions relating to the recordation or nonrecordation of conveyances of real property and to the effect thereof apply to the disclaimer with like effect, without regard to the date when the disclaimer was filed pursuant to subdivision (a). Failure to file a disclaimer pursuant to subdivision (a) which is recorded pursuant to this subdivision does not affect the validity of any transaction with respect to the real property or the obligation secured thereby, and the general laws on recording and its effect govern any such transaction.

SEC. 35. Section 284 of the Probate Code is amended to read:

284. A person who could file a disclaimer under this part may instead file a written waiver of the right to disclaim. The waiver shall specify the interest to which the waiver applies. Upon being filed as provided in Section 280, the waiver is irrevocable and is binding upon the beneficiary and all persons claiming by, through, or under the beneficiary.

SEC. 36. Section 287 of the Probate Code is amended to read:

287. An interest created before January 1, 1984, that has not been accepted may be disclaimed after December 31, 1983, in the manner

provided in this part, but no interest that arose before January 1, 1984, in a person other than the beneficiary may be destroyed or diminished by any action of the disclaimant taken pursuant to this part.

SEC. 37. Section 288 of the Probate Code is amended to read:

288. This part does not limit or abridge any right a person may have under any other law to assign, convey, or release any property or interest, but after December 31, 1983, an interest that would otherwise be taken by a beneficiary may be declined, refused, renounced, or disclaimed only as provided in this part.

SEC. 38. Section 295 of the Probate Code is amended to read:

295. Notwithstanding any other provision of this part, if as a result of a disclaimer or transfer the disclaimed or transferred interest is treated pursuant to the provisions of Title 26 of the United States Code, as now or hereafter amended, or any successor statute thereto, and the regulations promulgated thereunder, as never having been transferred to the beneficiary, then the disclaimer or transfer is effective as a disclaimer under this part.

SEC. 39. The heading of Division 3 (commencing with Section 300) of the Probate Code is repealed.

SEC. 40. Chapter 1 (commencing with Section 300) of Division 3 of the Probate Code is repealed.

SEC. 41. Part 9 (commencing with Section 300) is added to Division 2 of the Probate Code, to read:

PART 9. TRUST COMPANY AS FIDUCIARY

300. A trust company may be appointed to act as a personal representative, guardian or conservator of an estate, or trustee, in the same manner as an individual. A trust company may not be appointed guardian or conservator of the person of a ward or conservatee.

301. (a) A trust company appointed to act as a personal representative, or guardian or conservator of an estate, may not be required to give a bond.

(b) The liability of a trust company and the manner of its making of oaths and affidavits are governed by Article 3 (commencing with Section 1540) of Chapter 12 of Division 1 of, and Section 1587 of, the Financial Code.

SEC. 41.5. Part 11 (commencing with Section 350) is added to Division 2 of the Probate Code, to read:

PART 11. FIDUCIARIES' WARTIME SUBSTITUTION LAW

CHAPTER 1. GENERAL PROVISIONS

Article 1. Short Title and Definitions

350. This part may be cited as the Fiduciaries' Wartime

Substitution Law.

351. Unless the provision or context otherwise requires, the definitions in this article govern the construction of this part.

352. "Consultant" means a person, other than a trustee, designated in a trust to advise or direct the trustee concerning the trust, or whose consent or approval is required for a purchase, sale, exchange, or other transaction by the trustee, and includes a settlor who reserves the power of a consultant.

353. "Estate" means a trust estate, a decedent's estate, a guardianship or conservatorship estate, or other property that is the subject of a donative transfer.

354. "Interested person" means, in addition to the meaning given that term in Section 48, a person having a property right in or claim against a guardianship or conservatorship estate or other estate that may be affected by the proceeding.

355. "Original fiduciary" means a fiduciary who is replaced by a substitute fiduciary or who makes a delegation of power under this part.

356. A fiduciary or consultant is engaged in war service for the purpose of this part in each of the following cases:

(a) If he or she is a member of the armed forces of the United States or like forces of any nation with which the United States is allied or associated in time of war, and includes members of the Army, Navy, Marine Corps, Air Force, and Coast Guard, members of the Public Health Service detailed by proper authority for duty with the armed forces, and all other organizations or services recognized by the laws of the United States as a part of or auxiliary to the armed forces of the United States.

(b) If he or she has been accepted for and is awaiting induction into the armed forces, or is receiving training or education under government supervision preliminary to induction into any of these forces, in time of war.

(c) If he or she is engaged, outside the 50 states of the United States, in any work in connection with a governmental agency of the United States or with the American Red Cross or any other body with similar objects operating with the approval and sanction of the government of the United States or of any nation with which the United States is allied or associated in time of war.

(d) If he or she is engaged in time of war in service on any ship of United States registry.

(e) If he or she is interned or a prisoner of war in a foreign country or in the United States or any possession or dependency of the United States.

(f) If he or she is absent from the 50 states of the United States and, due to war conditions, is unable to return freely at his or her own volition.

(g) If he or she is engaged in any service in the United States or abroad arising out of or connected with a state of war that the court having jurisdiction of the estate finds prevents him or her from

giving proper attention to his or her duties.

Article 2. Scope of Part

360. This part applies to all fiduciaries, whether appointed or acting before, on, or after July 1, 1989.

361. This part does not apply to the extent an otherwise valid provision in an instrument provides a different or contrary rule or is otherwise inconsistent with this part.

Article 3. Procedural Provisions

365. Proceedings under this part are in the court having jurisdiction over the estate or, if none, any court in which jurisdiction of the estate is proper.

366. Notice of a hearing under this part shall be mailed at least 15 days before the hearing to each fiduciary and consultant and to the following persons:

(a) In the case of a trust, to each known beneficiary, subject to the provisions of Chapter 2 (commencing with Section 15800) of Part 3 of Division 9.

(b) In the case of a decedent's estate, as provided in Section 1220 to each known heir or devisee whose interest in the estate would be affected by the proceedings.

(c) In the case of a guardianship or conservatorship estate, as provided in Section 1460.

(d) In other cases, to any additional interested persons required by the court to receive notice.

CHAPTER 2. APPOINTMENT OF SUBSTITUTE FIDUCIARY

370. If a fiduciary is engaged in war service, on petition of the fiduciary, a cofiduciary, or an interested person, the court may do any of the following:

(a) Appoint a substitute fiduciary. If there is a qualified and acting cofiduciary, the court is not required to appoint a substitute fiduciary but may vest in the cofiduciary the powers of the original fiduciary engaged in war service.

(b) Order a suspension of the powers and duties of the original fiduciary for the period the original fiduciary is engaged in war service and until further order of the court.

(c) Order an account by the original fiduciary.

371. A substitute fiduciary has all the powers, including discretionary powers, that the original fiduciary had, except powers that the court determines are purely personal to the original fiduciary, and is subject to the same duties as the original fiduciary.

372. Except as otherwise ordered by the court, a substitute fiduciary shall give a bond in the manner and to the extent provided by law for the original fiduciary.

373. After the expiration of an original fiduciary's war service, if the estate has not been closed, the original fiduciary, on petition, is entitled to reinstatement as fiduciary. On reinstatement, the substitute fiduciary may, in the discretion of the court, be removed and may be discharged on conditions prescribed by the court.

374. A substitute fiduciary or an original fiduciary reinstated under Section 373 is not liable for the acts or omissions of the predecessor fiduciary.

CHAPTER 3. DELEGATION OF POWERS

Article 1. Delegation by Fiduciary

380. (a) A fiduciary who is or will be engaged in war service may delegate the fiduciary's powers, including discretionary powers, to a fiduciary who is not engaged in war service. Delegation may be made for the period during which the original fiduciary is engaged in war service and not to exceed six months following the expiration of that period.

(b) Approval of the court, on petition of the original fiduciary, the delegate, or an interested person, is required for delegation.

381. The right of delegation does not exist to the extent the court determines that powers to be delegated are purely personal to the original fiduciary.

382. After the expiration of the original fiduciary's war service, the court may, on petition of the original fiduciary, authorize the original fiduciary to resume the exercise of the fiduciary functions, and the delegated powers cease.

383. The original fiduciary is not liable for the acts or omissions of the delegate.

Article 2. Delegation by Consultant

385. (a) A consultant who is or will be engaged in war service may delegate the powers of the consultant, including discretionary powers, to a coconsultant who is not engaged in war service, or to the trustee administering the trust. The procedure for delegation by a fiduciary governs delegation by a consultant.

(b) The right of delegation does not exist to the extent the court determines that powers to be delegated are purely personal to the consultant. These powers are suspended until their exercise is resumed pursuant to this article.

386. If a consultant who is engaged in war service does not delegate the consultant's powers, the court, on petition of the trustee or an interested person, may do either of the following:

(a) Suspend the consultant's powers for the period of the consultant's war service and not to exceed six months following the expiration of that period.

(b) Confer the powers, except discretionary powers that the court

determines are purely personal to the consultant, on a coconsultant designated in the trust, the trustee, or any other qualified person.

387. If a consultant has delegated or the court has suspended the powers of the consultant, the court may, on petition by the consultant within six months following the expiration of the period of the consultant's war service, authorize the consultant to resume the exercise of the consultant's functions. All powers delegated to or conferred on other persons thereupon cease.

388. A consultant who delegates powers under this article is not liable for the acts or omissions of the delegate.

SEC. 42. Chapter 2 (commencing with Section 370) of Division 3 of the Probate Code is repealed.

SEC. 43. Chapter 3 (commencing with Section 400) of Division 3 of the Probate Code is repealed.

SEC. 44. Part 12 (commencing with Section 400) is added to Division 2 of the Probate Code, to read:

PART 12. PROBATE REFEREES

CHAPTER 1. APPOINTMENT AND REVOCATION

400. (a) The Controller shall appoint at least one person in each county to act as a probate referee for the county.

(b) If there are fewer than three qualified applicants to serve in a county, the Controller may designate a probate referee from another county or make an interim appointment, to serve until the vacancy has been filled by a qualified applicant.

401. (a) Appointment shall be from among persons passing a qualification examination. A person who passes the examination is eligible for appointment for a period of five years from the date of the examination.

(b) Appointment shall be on the basis of merit without regard to sex, race, religious creed, color, national origin, ancestry, marital status, or political affiliation.

402. (a) The qualification examination for applicants for appointment to act as a probate referee shall be held at times and places within the state determined by the Controller.

(b) The Controller may contract with another agency to administer the qualification examination. Administration of the examination shall include:

(1) Development of standards for passage of the examination.

(2) Preparation of examination questions.

(3) Giving the examination.

(4) Scoring the examination.

(c) Each applicant shall pay a fee for taking the qualification examination. The agency administering the examination shall transmit to the Controller a list of candidates who have received a passing score in the examination. The list is a public record.

403. (a) The term of office of a probate referee is four years,

expiring June 30. A person may be appointed to complete the unexpired term of office of a probate referee whose appointment is revoked or is otherwise terminated. For a period of five years from the date of expiration of the term of office, a person who had been appointed to act as a probate referee is eligible for reappointment.

(b) If the Controller increases the number of probate referees in a county, the Controller shall stagger the terms of the new appointees so that one-quarter, or as close to one-quarter as possible, of the terms of the probate referees in that county expire on June 30 of each succeeding year.

404. (a) The Controller shall establish and may amend standards of training, performance, and ethics of probate referees. The standards shall be a public record.

(b) The Controller may revoke the appointment of a person to act as a probate referee for noncompliance with any standard of training, performance, or ethics established under subdivision (a). The Controller may revoke an appointment under this subdivision without notice or a hearing, but the revocation is subject to review by writ of mandate in a court of competent jurisdiction.

405. Notwithstanding Section 404, the Controller may, at the Controller's pleasure, revoke the appointment of a person to act as a probate referee. Under this section, the Controller may revoke the appointment of not more than 10 percent of the probate referees in each county in any one calendar year, but may revoke the appointment of at least one probate referee in each county in any one calendar year.

406. (a) The authority of a person to act as a probate referee ceases immediately upon expiration of the person's term of office, revocation of the person's appointment, or other termination pursuant to law.

(b) Upon cessation of authority of a person to act as a probate referee, the Controller shall notify the court of the county for which the probate referee was appointed. Upon receipt of notice, or if it otherwise comes to the attention of the court that the authority of a person to act as a probate referee has ceased, the court shall reassign any estate for which the person had been designated as probate referee to another probate referee.

407. (a) As used in this section, "prohibited political activity" means directly or indirectly soliciting, receiving, or contributing, or being in any manner involved in soliciting, receiving, or contributing, any of the following:

(1) Any assessment, subscription, or contribution to any party, incumbent, committee, or candidate exceeding two hundred dollars ($200) in any one calendar year for any partisan public office of this state.

(2) An assessment, subscription, contribution, or political service in any amount for any campaign for the office of Controller.

(b) Upon a person's appointment and thereafter in January of each year during the person's tenure as a probate referee, the person

shall file with the Controller a verified statement indicating whether the person has engaged in prohibited political activity during the preceding two calendar years.

(c) The Controller may not appoint or reappoint as a probate referee a person who within the preceding two calendar years has engaged in prohibited political activity, and any such appointment or reappointment is void and shall be revoked. The Controller shall revoke the appointment of a person who, during the person's tenure as a probate referee, engages in prohibited political activity. However, all acts not otherwise invalid, performed by the person before revocation of the person's appointment, are valid.

(d) A person shall not engage in prohibited political activity during the time the person is an applicant for appointment or reappointment, or during the person's tenure as a probate referee. A violation of this subdivision is a misdemeanor.

(e) Subdivisions (a), (c), and (d) do not apply to any prohibited political activity that occurred before July 1, 1989, and the applicable law in effect before July 1, 1989, continues to apply. Subdivision (b) applies on July 1, 1989, to persons who apply for appointment on or after July 1, 1989. A person who applied for appointment or who was appointed before July 1, 1989, shall file the first statement required by subdivision (b) on or before July 1, 1989, and thereafter as prescribed in subdivision (b).

408. The appointment of a probate referee by the Controller before July 1, 1989, is not invalidated by the repeal of the law under which the appointment was made. Appointment of a probate referee before July 1, 1989, may be revoked under this chapter only if revocation would otherwise be proper under this chapter.

CHAPTER 2. POWERS OF PROBATE REFEREE

450. Upon designation by the court, the probate referee has all the powers of a referee of the superior court and all other powers provided in this chapter.

451. (a) For the purpose of appraisal of property in the estate, the probate referee may require, and may issue a subpoena to compel, the appearance before the referee of the personal representative, guardian, conservator, or other fiduciary, an interested person, or any other person the referee has reason to believe has knowledge of the property.

(b) A subpoena issued under subdivision (a) is subject to the provisions of Section 2020 of the Code of Civil Procedure governing deposition subpoenas.

452. (a) The probate referee may examine and take the testimony under oath of a person appearing before the referee, or require, and issue a subpoena to compel, the person to produce any document in the person's possession or control, concerning the value of any property in the estate.

(b) A subpoena issued under subdivision (a) is subject to the

provisions of Section 2020 of the Code of Civil Procedure governing deposition subpoenas.

453. (a) On petition of a person required to appear before the probate referee pursuant to this chapter, the court may make a protective order to protect the person from annoyance, embarrassment, or oppression. The petitioner shall mail notice of the hearing on the petition to the probate referee and to the personal representative at least 15 days before the date set for the hearing. Any subpoena issued by the probate referee is stayed during the pendency of the petition.

(b) On petition of the probate referee, the court may make an order to show cause why a person who is required, but fails, to appear before the probate referee pursuant to this chapter, should not be compelled to do so. The probate referee shall mail notice of the hearing on the petition to the person at least 15 days before the date set for the hearing.

SEC. 45. Chapter 4 (commencing with Section 420) of Division 3 of the Probate Code is repealed.

SEC. 46. Chapter 5 (commencing with Section 460) of Division 3 of the Probate Code is repealed.

SEC. 47. Chapter 6 (commencing with Section 480) of Division 3 of the Probate Code is repealed.

SEC. 48. Chapter 7 (commencing with Section 540) of Division 3 of the Probate Code is repealed.

SEC. 49. Part 13 (commencing with Section 550) is added to Division 2 of the Probate Code, to read:

PART 13. LITIGATION INVOLVING DECEDENT

CHAPTER 1. LIABILITY OF DECEDENT COVERED BY INSURANCE

550. (a) Subject to the provisions of this chapter, an action to establish the decedent's liability for which the decedent was protected by insurance may be commenced or continued against the decedent's estate without the need to join as a party the decedent's personal representative or successor in interest.

(b) The remedy provided in this chapter is cumulative and may be pursued concurrently with other remedies.

551. If the limitations period otherwise applicable to the action has not expired at the time of the decedent's death, an action under this chapter may be commenced within one year after the expiration of the limitations period otherwise applicable.

552. (a) An action under this chapter shall name as the defendant, "Estate of (name of decedent), Deceased." Summons shall be served on a person designated in writing by the insurer or, if none, on the insurer. Further proceedings shall be in the name of the estate, but otherwise shall be conducted in the same manner as if the action were against the personal representative.

(b) On motion of an interested person, or on its own motion, the

court in which the action is pending may, for good cause, order the appointment and substitution of a personal representative as the defendant.

(c) An action against the estate of the decedent under this chapter may be consolidated with an action against the personal representative.

553. The insurer may deny or otherwise contest its liability in an action under this chapter or by an independent action. Unless the personal representative is joined as a party, a judgment in the action under this chapter or in the independent action does not adjudicate rights by or against the estate.

554. (a) Except as provided in subdivision (b), either the damages sought in an action under this chapter shall be within the limits and coverage of the insurance, or recovery of damages outside the limits or coverage of the insurance shall be waived. A judgment in favor of the plaintiff in the action is enforceable only from the insurance coverage and not against property in the estate.

(b) Where the amount of damages sought in the action exceeds the coverage of the insurance, subdivision (a) does not apply if both of the following conditions are satisfied:

(1) The personal representative is joined as a party to the action.

(2) The plaintiff files a claim under Section 9390.

555. (a) This chapter applies only to an action commenced on or after July 1, 1989.

(b) The applicable law in effect before July 1, 1989, continues to apply to an action commenced before July 1, 1989, notwithstanding its repeal by the act that enacted this chapter.

SEC. 50. The heading of Chapter 8 (commencing with Section 573) of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 2. SURVIVAL OF ACTIONS

SEC. 51. Chapter 9 (commencing with Section 600) of Division 3 of the Probate Code is repealed.

SEC. 52. Chapter 11 (commencing with Section 660) of Division 3 of the Probate Code is repealed.

SEC. 53. Chapter 12 (commencing with Section 707) of Division 3 of the Probate Code is repealed.

SEC. 53.5. Chapter 13 (commencing with Section 750) of Division 3 of the Probate Code is repealed.

SEC. 54. The heading of Chapter 15 (commencing with Section 900) of Division 3 of the Probate Code is amended and renumbered to read:

PART 15. COMPENSATION

Article 1. Commissions

SEC. 54.3. Section 900 of the Probate Code is amended to read:

900. The personal representative shall be allowed, for his or her services, the compensation provided in this chapter; but when the decedent, by his or her will, makes other provision for the compensation of the personal representative, that shall be a full compensation for the services of the personal representative, unless by a written instrument, filed in the court, the personal representative renounces all claim for compensation provided for in the will.

SEC. 54.5. Article 3 (commencing with Section 920) of Chapter 15 of Division 3 of the Probate Code is repealed.

SEC. 55. Article 4 (commencing with Section 956) as added by Chapter 923 of the Statutes of 1987 to Chapter 15 of Division 3 of the Probate Code is repealed.

SEC. 55.5. Chapter 16 (commencing with Section 1000) of Division 3 of the Probate Code is repealed.

SEC. 56. Division 3 (commencing with Section 1000) is added to the Probate Code, to read:

DIVISION 3. GENERAL PROVISIONS OF A PROCEDURAL NATURE

PART 1. GENERAL PROVISIONS

CHAPTER 1. RULES OF PRACTICE

1000. Except to the extent that this code provides applicable rules, the rules of practice applicable to civil actions apply to, and constitute the rules of practice in, proceedings under this code.

1001. (a) The Judicial Council may provide by rule for the practice and procedure under this code. Unless disapproved by the Judicial Council, a court may provide by local rule for the practice and procedure under this code. Judicial Council and local court rules shall be consistent with the applicable statutes.

(b) The Judicial Council may prescribe the form of the applications, notices, orders, and other documents required by this code. Any form prescribed by the Judicial Council is deemed to comply with this code.

1002. Unless it is otherwise provided by this code or by rules adopted by the Judicial Council, either the superior court or the court on appeal may, in its discretion, order costs to be paid by any party to the proceedings, or out of the assets of the estate, as justice may require.

1003. (a) The court may, on its own motion or on request of a personal representative, guardian, conservator, trustee, or other interested person, appoint a guardian ad litem at any stage of a proceeding to represent the interest of any of the following persons, if the court determines that representation of the interest otherwise would be inadequate:

(1) A minor.
(2) An incapacitated person.
(3) An unborn person.
(4) An unascertained person.
(5) A person whose identity or address is unknown.
(6) A designated class of persons who are not ascertained or are not in being.

(b) If not precluded by a conflict of interest, a guardian ad litem may be appointed to represent several persons or interests.

(c) The reasonable expenses of the guardian ad litem, including compensation and attorney's fees, shall be determined by the court and paid as the court orders, either out of the property of the estate involved or by the petitioner or from such other source as the court orders.

1004. If a proceeding affects the title to or the right of possession of real property, notice of the pendency of the proceeding may be filed pursuant to Section 409 of the Code of Civil Procedure.

CHAPTER 2. PETITIONS AND OTHER PAPERS

1020. Except as provided in Section 1023, a petition, objection, response, report, or account shall be in writing, signed by all of the petitioners, objectors, or respondents or by all of the persons making the report or account, and filed with the court clerk.

1021. (a) All of the following shall be verified:

(1) A petition, report, or account filed pursuant to this code.

(2) An objection or response filed pursuant to this code to a petition, report, or account.

(b) Except as provided in Section 1023, the verification shall be made as follows:

(1) A petition shall be verified by the petitioner or, if there are two or more parties joining in the petition, by any of them.

(2) A report or account shall be verified by the person who has the duty to make the report or account or, if there are two or more persons having a duty to make the report or account, by any of them.

(3) An objection or response shall be verified by the objector or respondent or, if there are two or more parties joining in the objection or response, by any of them.

1022. An affidavit or verified petition shall be received as evidence when offered in an uncontested proceeding under this code.

1023. If a petitioner, objector, or respondent is absent from the county or for some other cause is unable to sign or verify a petition, objection, or response, the person's attorney may do either or both of the following:

(a) Sign the petition, response, or objection, if the petitioner, objector, or respondent is not a fiduciary.

(b) Verify the petition, objection, or response.

CHAPTER 3. HEARINGS AND ORDERS

1040. This chapter governs the hearing of all matters under this code, except where the statute that provides for the hearing of the matter prescribes a different procedure.

1041. When a petition, report, account, or other matter that requires a hearing is filed with the court clerk, the clerk shall set the matter for hearing.

1042. A hearing under this code shall be on notice unless the statute that provides for the hearing dispenses with notice.

1043. (a) An interested person may appear and make a response or objection in writing at or before the hearing.

(b) An interested person may appear and make a response or objection orally at the hearing. The court in its discretion shall either hear and determine the response or objection at the hearing, or grant a continuance for the purpose of allowing a response or objection to be made in writing.

(c) A request for a continuance for the purpose of making a written response or objection shall not itself be considered as a response or objection, nor shall the failure to make a response or objection during the time allowed be considered as a response or objection.

1044. The petitioner or other party affirming is the plaintiff and the party objecting or responding is the defendant.

1045. The court may continue or postpone any hearing, from time to time, in the interest of justice.

1046. The court shall hear and determine any matter at issue and any response or objection presented, consider evidence presented, and make appropriate orders.

1047. Except as otherwise provided in this code, an order made in a proceeding under this code need not recite the existence of facts, or the performance of acts, upon which jurisdiction depends, but need only contain the matters ordered.

1048. (a) Except as provided in subdivision (b), orders shall be either entered at length in the minute book of the court or signed by the judge and filed.

(b) An order for distribution shall be entered at length in a judgment book or other permanent record of the court.

1049. An order may be enforced as provided in Title 9 (commencing with Section 680.010) of Part 2 of the Code of Civil Procedure.

1050. The judgment roll in a proceeding under this code consists of the following papers, where applicable:

(a) In all cases:

(1) The petition, application, contest, report, or account that initiates a particular proceeding.

(2) Any order directing notice of the hearing to be given.

(3) Any notice of the hearing, and any order to show cause made in the proceeding, with the affidavits showing publication, posting,

or mailing of the notice or order as may be required by law or court order.

(4) Any citation, in case no answer or written opposition is filed by a party entitled, by law or court order, to notice of the proceeding by citation, with the affidavit or proof of service and, if service of the citation is made by publication, the affidavit of publication and the order directing publication.

(5) Any finding of the court or referee in the proceeding.

(6) The order or statement of decision made in the proceeding.

(7) Any letters of the personal representative.

(b) If an answer, demurrer, written opposition, or counter petition is filed in a proceeding:

(1) Pleadings and papers in the nature of pleadings.

(2) Any orders striking out a pleading in whole or in part.

(3) Any order made on demurrer, or relating to a change of parties, in the proceeding.

(4) The verdict of the jury, if any.

(c) If the proceeding is for the probate of a will, the will.

(d) If the proceeding is a contest of a will, for the revocation of the probate of a will, or for a preliminary or final distribution of the estate under a will:

(1) The will.

(2) The order admitting the will to probate.

(e) If the proceeding is for the settlement of the final account of a personal representative or for the final distribution of an estate, the affidavit showing publication of notice to creditors.

SEC. 56.5. Chapter 17 (commencing with Section 1080) of Division 3 of the Probate Code is repealed.

SEC. 57. Chapter 18 (commencing with Section 1100) of Division 3 of the Probate Code is repealed.

SEC. 57.5. Chapter 20 (commencing with Section 1140) of Division 3 of the Probate Code is repealed.

SEC. 58. Chapter 21 (commencing with Section 1190) of Division 3 of the Probate Code is repealed.

SEC. 58.5. The heading of Chapter 22 (commencing with Section 1200) of Division 3 of the Probate Code is amended and renumbered to read:

PART 2. NOTICES

SEC. 59. The heading of Article 1 (commencing with Section 1200) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 1. GENERAL NOTICE PROVISIONS

SEC. 59.5. Section 1203 of the Probate Code is amended to read:

1203. (a) Subject to subdivisions (b) and (c), the court may, for good cause, shorten the time for giving a notice of hearing.

(b) The court may not shorten the time for giving the notice of hearing required by Section 8003 or 9861.

(c) Unless the particular provision governing the publication of notice of hearing otherwise provides, the court may not shorten the time for publication of notice of hearing.

SEC. 60. Section 1210 is added to the Probate Code, to read:

1210. If an interested person has a guardian or conservator of the estate who resides in this state, personal service on the guardian or conservator of any process, notice, or court order concerning a decedent's estate is equivalent to service on the ward or conservatee, and it is the duty of the guardian or conservator to attend to the interests of the ward or conservatee in the matter. The guardian or conservator may appear for the ward or conservatee and waive any process, notice, or order to show cause that a person not under legal disability might waive.

SEC. 60.5. The heading of Article 2 (commencing with Section 1215) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 2. MAILING IN GENERAL

SEC. 60.7. Section 1215 of the Probate Code is amended to read:

1215. Unless otherwise expressly provided:

(a) If a notice or other paper is required or permitted to be mailed to a person, notice shall be mailed as provided in this section or personally delivered as provided in Section 1216.

(b) The notice or other paper shall be sent by:

(1) First-class mail if the person's address is within the United States. First-class mail includes certified, registered, and express mail.

(2) Airmail if the person's address is not within the United States.

(c) The notice or other paper shall be deposited for collection in the United States mail, in a sealed envelope, with postage paid, addressed to the person to whom it is mailed.

(d) The notice or other paper shall be addressed to the person at the person's place of business or place of residence, if known, or, if neither address is known, to the person at the county seat where the proceedings are pending.

(e) When the notice or other paper is deposited in the mail, mailing is complete and the period of notice is not extended.

SEC. 61. The heading of Article 3 (commencing with Section 1220) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 3. MAILING NOTICE OF HEARING

SEC. 61.3. Section 1220 of the Probate Code is amended to read:

1220. (a) Notice of a hearing shall be given as provided in this section in the following cases:

(1) Where another section so requires.

(2) Where notice of a hearing is required but no other period or manner is prescribed by statute, unless the period or manner of notice is ordered by the court or judge.

(b) At least 15 days before the time set for the hearing, the petitioner or the person filing the report, account, or other paper shall cause notice of the time and place of the hearing to be mailed to the persons required to be given notice.

(c) Unless the section requiring notice specifies the persons to be given notice, notice shall be mailed to all of the following:

(1) The personal representative.

(2) All persons who have given notice of appearance in the estate proceeding in person or by attorney. If the person appeared by attorney, the notice shall be mailed to the attorney.

(d) The notice shall be addressed to the person required to be given notice at the person's place of business or place of residence, if known, or, if neither address is known, to the person at the county seat where the proceedings are pending.

(e) Nothing in this section excuses compliance with the requirements for notice to a person who has requested special notice pursuant to Article 6 (commencing with Section 1250).

(f) The court for good cause may dispense with the notice otherwise required to be given to a person as provided in this section.

SEC. 61.5. The heading of Article 4 (commencing with Section 1230) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 4. POSTING NOTICE OF HEARING

SEC. 62. The heading of Article 5 (commencing with Section 1240) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 5. CITATIONS

SEC. 62.5. The heading of Article 6 (commencing with Section 1250) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 6. REQUEST FOR SPECIAL NOTICE

SEC. 63. Section 1250 of the Probate Code is amended to read:

1250. (a) At any time after the issuance of letters, any person interested in the estate, whether as devisee, heir, creditor, beneficiary under a trust, or as otherwise interested, may in person or by attorney, file with the court clerk, a written request for special notice.

(b) The request for special notice shall be so entitled and shall set forth the name of the person and the address to which notices shall

be sent.

(c) Special notice may be requested of any or all of the following matters:

(1) Petitions filed in the administration proceeding.

(2) Inventories and appraisals of property in the estate, including any supplemental inventories and appraisals.

(3) Objections to an appraisal.

(4) Accounts of a personal representative.

(5) Reports of status of administration.

(d) Special notice may be requested of any matter in subdivision (c) by describing it, or of all the matters in subdivision (c) by referring generally to "the matters described in subdivision (c) of Section 1250 of the Probate Code" or by using words of similar meaning.

(e) A copy of the request shall be personally delivered or mailed to the personal representative or to the attorney for the personal representative. If personally delivered, the request is effective when it is delivered. If mailed, the request is effective when it is received.

(f) When the original of the request is filed with the court clerk, it shall be accompanied by a written admission or proof of service.

SEC. 63.5. Section 1252 of the Probate Code is amended to read:

1252. (a) If a request has been made pursuant to Section 1250 for special notice of a hearing, the person filing the petition, report, account, or other paper shall give written notice of the filing, together with a copy of the petition, report, account, or other paper, and the time and place set for the hearing, by mail to the person named in the request at the address set forth in the request, at least 15 days before the time set for the hearing.

(b) If a request has been made pursuant to Section 1250 for special notice of the filing of an inventory and appraisal of the estate or of the filing of any other paper that does not require a hearing, the inventory and appraisal or other paper shall be mailed not later than 15 days after the inventory and appraisal or other paper is filed with the court.

SEC. 64. The heading of Article 7 (commencing with Section 1260) of Chapter 22 of Division 3 of the Probate Code is amended and renumbered to read:

CHAPTER 7. PROOF OF GIVING NOTICE

SEC. 64.5. Chapter 22.5 (commencing with Section 1280) of Division 3 of the Probate Code is repealed.

SEC. 65. Chapter 23 (commencing with Section 1300) of Division 3 of the Probate Code is repealed.

SEC. 66. Section 2100 of the Probate Code is amended to read:

2100. Guardianships and conservatorships are governed by the provisions of Division 3 (commencing with Section 1000) and of this division. If no specific provision of this division is applicable, the provisions applicable to administration of estates of decedents

govern so far as they are applicable to like situations.

SEC. 66.5. Section 2250 of the Probate Code is amended to read:

2250. (a) On or after the filing of a petition for appointment of a guardian or conservator, any person entitled to petition for appointment of the guardian or conservator may file a petition for appointment of:

(1) A temporary guardian of the person or estate or both.

(2) A temporary conservator of the person or estate or both.

(b) The petition shall state facts which establish good cause for appointment of the temporary guardian or temporary conservator. The court, upon such petition or other showing as it may require, may appoint a temporary guardian of the person or estate or both, or a temporary conservator of the person or estate or both, to serve pending the final determination of the court upon the petition for the appointment of the guardian or conservator.

(c) Unless the court for good cause otherwise orders, not less than five days before the appointment of the temporary guardian or temporary conservator, notice of the proposed appointment shall be personally delivered to the proposed ward if 14 years of age or older or to the proposed conservatee. The appointment of the temporary guardian or temporary conservator may be made with or without notice to other persons as the court may require.

(d) One petition may request the appointment of a guardian or conservator and also the appointment of a temporary guardian or conservator or such appointments may be requested in separate petitions.

(e) If the court suspends powers of the guardian or conservator under Section 2334 or 2654 or under any other provision of this division, the court may appoint a temporary guardian or conservator to exercise those powers until the powers are restored to the guardian or conservator or a new guardian or conservator is appointed.

(f) If for any reason a vacancy occurs in the office of guardian or conservator, the court, on a petition filed under subdivision (a) or on its own motion, may appoint a temporary guardian or conservator to exercise the powers of the guardian or conservator until a new guardian or conservator is appointed.

SEC. 67. Section 2320 of the Probate Code is amended to read:

2320. (a) Except as otherwise provided by statute:

(1) Every guardian and conservator shall give a bond in the amount fixed by the court, conditioned upon the faithful execution of the duties of the office according to law, to protect the ward or conservatee and all persons interested in the guardianship or conservatorship estate.

(2) Unless the court increases or decreases the amount upon a showing of good cause, the amount of a bond given by an admitted surety insurer shall be the value of the personal property and the value of the probable annual gross income of all of the property in the guardianship or conservatorship estate.

(b) If the sureties on the bond are personal sureties, the bond shall be one approved by the court and shall be for twice the amount required for a bond given by an admitted surety insurer.

SEC. 67.5. Section 2325 of the Probate Code is amended to read:

2325. The surety on the bond of a nonprofit charitable corporation described in Section 2104 shall be an admitted surety insurer.

SEC. 68. Section 2333 of the Probate Code is amended to read:

2333. (a) In case of a breach of a condition of the bond, an action may be brought against the sureties on the bond for the use and benefit of the ward or conservatee or of any person interested in the estate.

(b) Except as provided in subdivision (c), no action may be maintained against the sureties on the bond unless commenced within four years from the discharge or removal of the guardian or conservator or within four years from the date the order surcharging the guardian or conservator becomes final, whichever is later.

(c) If at the time of the discharge or removal of the guardian or conservator or when the order of surcharge becomes final any person entitled to bring the action is under any legal disability to sue, such person may commence the action within four years after the disability is removed.

SEC. 69. Section 2430 of the Probate Code is amended to read:

2430. (a) Subject to subdivisions (b) and (c), the guardian or conservator shall pay the following from any principal and income of the estate:

(1) The debts incurred by the ward or conservatee before creation of the guardianship or conservatorship, giving priority to the debts described in Section 2431 to the extent required by that section.

(2) The debts incurred by the ward or conservatee during the guardianship or conservatorship to provide the necessaries of life to the ward or conservatee, and to the spouse and minor children of the ward or conservatee, to the extent the debt is reasonable. The guardian or conservator may deduct the amount of any payments for such debts from any allowance otherwise payable to the ward or conservatee.

(3) In the case of a conservatorship, any other debt incurred by the conservatee during the conservatorship only if the debt satisfies the requirements of any order made under Chapter 4 (commencing with Section 1870) of Part 3.

(4) The reasonable expenses incurred in the collection, care, and administration of the estate, but court authorization is required for payment of compensation to any of the following:

(i) The guardian or conservator of the person or estate or both.

(ii) An attorney for the guardian or conservator of the person or estate or both.

(iii) An attorney for the ward or conservatee.

(iv) An attorney for the estate.

(v) The public guardian for the costs and fee under Section 2902.

(b) The payments provided for by paragraph (3) of subdivision (a) are not required to be made to the extent such payments would impair the ability to provide necessaries of life to the conservatee and the spouse and minor children of the conservatee.

(c) The guardian or conservator may petition the court under Section 2403 for instructions when there is doubt whether a debt should be paid under this section.

SEC. 69.5. Section 2523 of the Probate Code is repealed.

SEC. 70. Section 2580 of the Probate Code is amended to read:

2580. (a) The conservator or other interested person may file a petition under this article for an order of the court authorizing or requiring the conservator to take a proposed action for any one or more of the following purposes:

(1) Benefiting the conservatee or the estate.

(2) Minimizing current or prospective taxes or expenses of administration of the conservatorship estate or of the estate upon the death of the conservatee.

(3) Providing gifts for such purposes, and to such charities, relatives (including the other spouse), friends, or other objects of bounty, as would be likely beneficiaries of gifts from the conservatee.

(b) The action proposed in the petition may include, but is not limited to, the following:

(1) Making gifts of principal or income, or both, of the estate, outright or in trust.

(2) Conveying or releasing the conservatee's contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

(3) Exercising or releasing the conservatee's powers as donee of a power of appointment.

(4) Entering into contracts.

(5) Creating for the benefit of the conservatee or others, revocable or irrevocable trusts of the property of the estate, which trusts may extend beyond the conservatee's disability or life.

(6) Exercising options of the conservatee to purchase or exchange securities or other property.

(7) Exercising the rights of the conservatee to elect benefit or payment options, to terminate, to change beneficiaries or ownership, to assign rights, to borrow, or to receive cash value in return for a surrender of rights under any of the following:

(i) Life insurance policies, plans, or benefits.

(ii) Annuity policies, plans, or benefits.

(iii) Mutual fund and other dividend investment plans.

(iv) Retirement, profit sharing, and employee welfare plans and benefits.

(8) Exercising the right of the conservatee to elect to take under or against a will.

(9) Exercising the right of the conservatee to disclaim any interest

that may be disclaimed under Part 8 (commencing with Section 260) of Division 2.

(10) Exercising the right of the conservatee (i) to revoke a revocable trust or (ii) to surrender the right to revoke a revocable trust, but the court shall not authorize or require the conservator to exercise the right to revoke a revocable trust if the instrument governing the trust (i) evidences an intent to reserve the right of revocation exclusively to the conservatee, (ii) provides expressly that a conservator may not revoke the trust, or (iii) otherwise evidences an intent that would be inconsistent with authorizing or requiring the conservator to exercise the right to revoke the trust.

(11) Making an election referred to in Section 13502 or an election and agreement referred to in Section 13503.

SEC. 70.5. Section 2610 of the Probate Code is amended to read:

2610. (a) Within 90 days after appointment, or within such further time as the court for reasonable cause upon ex parte petition of the guardian or conservator may allow, the guardian or conservator shall file with the clerk of the court an inventory and appraisal of the estate, made as of the date of the appointment of the guardian or conservator.

(b) The guardian or conservator shall take and subscribe to an oath that the inventory contains a true statement of all of the estate of the ward or conservatee of which the guardian or conservator has possession or knowledge. The oath shall be endorsed upon or annexed to the inventory.

(c) The property described in the inventory shall be appraised in the manner provided for the inventory and appraisal of estates of decedents. The guardian or conservator may appraise the assets that a personal representative could appraise under Section 8901.

(d) If a conservatorship is initiated pursuant to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code) and no sale of the estate will occur:

(1) The inventory and appraisal required by subdivision (a) shall be filed within 90 days after appointment of the conservator.

(2) The property described in the inventory may be appraised by the conservator and need not be appraised by a probate referee.

SEC. 71. Section 2616 of the Probate Code is amended to read:

2616. (a) A petition may be filed under this section by any one or more of the following:

(1) The guardian or conservator.

(2) The ward or conservatee.

(3) A creditor or other interested person, including persons having only an expectancy or prospective interest in the estate.

(b) The petition may allege any one or more of the following:

(1) A named person is suspected of having embezzled, concealed, smuggled, or falsely or fraudulently obtained or wrongfully disposed of any property of the ward or conservatee.

(2) A named person has in such person's possession, or has

knowledge of, any instrument in writing belonging to the ward or conservatee.

(3) A named person asserts a claim against the ward or conservatee or the estate.

(4) The estate asserts a claim against a named person.

(c) Upon the filing of a petition under this section, the court may cite the named person to appear before the court, and the court and the petitioner may examine the named person under oath upon the matters recited in the petition. If the named person is not in the county where letters issued, the examination shall be made under this section but otherwise the procedure and the rights and duties of the parties shall be governed by the provisions of Article 2 (commencing with Section 8870) of Chapter 2 of Part 3 of Division 7.

SEC. 71.5. Section 2631 of the Probate Code is amended to read:

2631. (a) Upon the death of the ward or conservatee, the guardian or conservator may contract for and pay a reasonable sum for the expenses of the last illness and the disposition of the remains of the deceased ward or conservatee, and for unpaid court approved attorney's fees, and may pay the unpaid expenses of the guardianship or conservatorship accruing before or after the death of the ward or conservatee, in full or in part, to the extent reasonable, from any assets of the deceased ward or conservatee, other than real property or any interest therein, which are under the control of the guardian or conservator.

(b) If payment of expenses under subdivision (a) cannot be made in full and the total market value of the remaining estate of the decedent does not exceed ten thousand dollars ($10,000), the guardian or conservator may petition the court for an order permitting the guardian or conservator to liquidate the decedent's estate. The guardian or conservator may petition even though there is a will of the decedent in existence if the will does not appoint an executor or if the named executor refuses to act. No notice of the petition need be given. If the order is granted, the guardian or conservator may sell personal property of the decedent, withdraw money of the decedent in an account in a financial institution, and collect a debt, claim, or insurance proceeds owed to the decedent or the decedent's estate, and a person having possession or control shall pay or deliver the money or property to the guardian or conservator.

(c) When a claim for expenses is presented to the guardian or conservator, the guardian or conservator shall endorse thereon an allowance or rejection, with the date thereof. If the claim is allowed, it shall be presented to the court and the court shall in like manner endorse thereon an allowance or rejection. If the claim is approved by the court, the claim shall be filed with the clerk within 30 days thereafter.

(d) After payment of expenses, the guardian or conservator may transfer any remaining assets as provided in Division 8 (commencing with Section 13000). For this purpose, the value of the property of

the deceased ward or conservatee shall be determined after the deduction of the expenses so paid.

SEC. 72. Part 5 (commencing with Section 2900) is added to Division 4 of the Probate Code, to read:

PART 5. PUBLIC GUARDIAN

CHAPTER 1. TAKING TEMPORARY POSSESSION OR CONTROL OF PROPERTY

2900. The public guardian may take possession or control of property of a person domiciled in the county that is subject to loss, injury, waste, or misappropriation if the public guardian determines that the requirements for appointment of a guardian or conservator of the estate are satisfied and the public guardian intends to apply for appointment.

2901. (a) A public guardian who is authorized to take possession or control of property under this chapter may issue a written certification of that fact. The written certification is effective for five days after the date of issuance.

(b) The public guardian may record a copy of the written certification in any county in which is situated real property of which the public guardian is authorized to take possession or control under this chapter.

(c) A financial institution or other person shall, without the necessity of inquiring into the truth of the written certification and without court order or letters being issued:

(1) Provide the public guardian information concerning property held in the sole name of the proposed ward or conservatee.

(2) Surrender to the public guardian property of the proposed ward or conservatee that is subject to loss, injury, waste, or misappropriation.

(d) Receipt of the written certification:

(1) Constitutes sufficient acquittance for providing information and for surrendering property of the proposed ward or conservatee.

(2) Fully discharges the county recorder, financial institution, or other person from any liability for any act or omission of the public guardian with respect to the property.

2902. A public guardian who takes possession or control of property pursuant to this chapter is entitled to reasonable costs incurred for the protection of the property, together with a reasonable fee for services, in case of the subsequent appointment of another person as guardian or conservator of the estate. The costs and fee are a proper and legal charge against the estate of the ward or conservatee.

2903. This chapter applies only to possession or control of property by a public guardian on or after July 1, 1989. Possession or control of property by a public guardian before July 1, 1989, is governed by the applicable law in effect before July 1, 1989,

notwithstanding its repeal by the act that enacted this chapter.

CHAPTER 2. APPOINTMENT OF PUBLIC GUARDIAN

2920. If any person domiciled in the county requires a guardian or conservator and there is no one else who is qualified and willing to act and whose appointment as guardian or conservator would be in the best interest of the person:

(a) The public guardian may apply for appointment as guardian or conservator of the person, the estate, or the person and estate.

(b) The public guardian shall apply for appointment as guardian or conservator of the person, the estate, or the person and estate, if the court so orders. The court may make an order under this subdivision on motion of an interested person or on the court's own motion in a pending proceeding or in a proceeding commenced for that purpose. The court shall not make an order under this subdivision except after notice to the public guardian for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1, consideration of the alternatives, and a determination by the court that the appointment is necessary. The notice and hearing under this subdivision may be combined with the notice and hearing required for appointment of a guardian or conservator.

2921. An application of the public guardian for guardianship or conservatorship of the person, the estate, or the person and estate, of a person who is under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services may not be granted without the written consent of the department having jurisdiction of the person.

2922. If the public guardian is appointed as guardian or conservator:

(a) Letters shall be issued in the same manner and by the same proceedings as letters are issued to other persons. Letters may be issued to "the public guardian" of the county without naming the public guardian.

(b) The official bond and oath of the public guardian are in lieu of the guardian or conservator's bond and oath on the grant of letters.

CHAPTER 3. ADMINISTRATION BY PUBLIC GUARDIAN

2940. All funds coming into the custody of the public guardian shall be deposited or invested in the same manner and subject to the same terms and conditions as deposit or investment by the public administrator of money in an estate pursuant to Article 3 (commencing with Section 7640) of Chapter 4 of Part 1 of Division 7.

2941. The public guardian may, if necessary and in the public guardian's discretion, employ private attorneys where the cost of employment can be defrayed out of estate funds or where satisfactory pro bono or contingency fee arrangements can be made.

2942. The public guardian has a claim against the estate of the ward or conservatee for all of the following:

(a) Reasonable expenses incurred in the execution of the guardianship or conservatorship.

(b) Compensation for services of the public guardian and the attorney of the public guardian, and for the filing and processing services of the county clerk, in the amount the court determines is just and reasonable.

(c) A bond fee in the amount of twenty-five dollars ($25) plus one-fourth of 1 percent of the amount of an estate greater than ten thousand dollars ($10,000). The amount charged shall be deposited in the county treasury. This subdivision does not apply if the conservatee is eligible for Social Security Supplemental Income Benefits.

2943. Notwithstanding subdivision (c) of Section 2610, the property described in the inventory may be appraised by the public guardian and need not be appraised by a probate referee if the public guardian files with the inventory an appraisal showing that the estimated value of the property in the estate, including cash items, does not exceed ten thousand dollars ($10,000).

2944. The public guardian is not liable for failing to take possession or control of property that is beyond the ability of the public guardian to possess or control.

SEC. 73. Section 3082 of the Probate Code is amended to read:

3082. Upon the filing of a petition under this article, the court may cite the spouse who has the management or control of community property to appear before the court, and the court and the petitioner may examine the spouse under oath concerning the community property and other matters relevant to the petition filed under this article. If the person so cited refuses to appear and submit to an examination, the court may proceed against the person as provided in Article 2 (commencing with Section 8870) of Chapter 2 of Part 3 of Division 7. Upon such examination, the court may make an order requiring the person cited to disclose his or her knowledge of the community property and other matters relevant to the petition filed under this article, and if the order is not complied with the court may proceed against the person as provided in Article 2 (commencing with Section 8870) of Chapter 2 of Part 3 of Division 7.

SEC. 73.5. Section 3918 of the Probate Code is amended to read:

3918. (a) A person nominated under Section 3903 or designated under Section 3909 as custodian may decline to serve by delivering a valid disclaimer under Part 8 (commencing with Section 260) of Division 2 to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under Section 3903, the person who made the nomination may nominate a substitute custodian under Section 3903; otherwise the transferor or the

transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under subdivision (a) of Section 3909. The custodian so designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under Section 3904 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed. The transferor may designate one or more persons as successor custodians to serve, in the designated order of priority, in case the custodian originally designated or a prior successor custodian is unable, declines, or is ineligible to serve or resigns, dies, becomes incapacitated, or is removed. The designation either (1) shall be made in the same transaction and by the same document by which the transfer is made or (2) shall be made by executing and dating a separate instrument of designation before a subscribing witness other than a successor as a part of the same transaction and contemporaneously with the execution of the document by which the transfer is made. The designation is made by setting forth the successor custodian's name, followed in substance by the words: " is designated [first, second, etc., where applicable] successor custodian." A successor custodian designated by the transferor may be a trust company or an adult other than a transferor under Section 3904. A successor custodian effectively designated by the transferor has priority over a successor custodian designated by a custodian.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) If the transferor has not effectively designated a successor custodian, and a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of 14 years, the minor may designate as successor custodian, in the manner prescribed in subdivision (b), an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor has not attained the age of 14 years or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under subdivision (a) or

resigns under subdivision (c), or the legal representative of a deceased or incapacitated custodian, as soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the minor, or the minor if the minor has attained the age of 14 years, may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under Section 3904 or to require the custodian to give appropriate bond.

(g) Upon the filing of a petition under subdivision (d) or (f), the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interests of the minor.

SEC. 74. Section 6104 is added to the Probate Code, to read:

6104. The execution or revocation of a will or a part of a will is ineffective to the extent the execution or revocation was procured by duress, menace, fraud, or undue influence.

SEC. 74.5. Section 6105 is added to the Probate Code, to read:

6105. A will, the validity of which is made conditional by its own terms, shall be admitted to probate or rejected, or denied effect after admission to probate, in conformity with the condition.

SEC. 75. Section 6112 of the Probate Code is amended to read:

6112. (a) Any person generally competent to be a witness may act as a witness to a will.

(b) A will or any provision thereof is not invalid because the will is signed by an interested witness. Unless there are at least two other subscribing witnesses to the will who are disinterested witnesses, the fact that the will makes a devise to a subscribing witness creates a presumption that the witness procured the devise by duress, menace, fraud, or undue influence. This presumption is a presumption affecting the burden of proof.

(c) If a devise made by the will to an interested witness fails because the presumption established by subdivision (b) applies to the devise and the witness fails to rebut the presumption, the interested witness shall take such proportion of the devise made to the witness in the will as does not exceed the share of the estate which would be distributed to the witness if the will were not established. Nothing in this subdivision affects the law that applies where it is established that the witness procured a devise by duress, menace, fraud, or undue influence.

(d) A provision in a will that a person who contests or attacks the will or any of its provisions takes nothing under the will or takes a reduced share does not apply to a contest or attack on a provision of

the will that benefits a witness to the will.

SEC. 75.5. Section 6154 is added to the Probate Code, to read:

6154. Devises are classified as follows:

(a) A specific devise is a devise of specifically identifiable property.

(b) A general devise is a devise from the general estate that does not give specific property.

(c) A demonstrative devise is a general devise that specifies the fund or property from which the devise is primarily to be made.

(d) A general pecuniary devise is a pecuniary gift within the meaning of Section 21120 that is made by will.

(e) An annuity is a general pecuniary devise that is payable periodically.

(f) A residuary devise is a devise of property that remains after all specific and general devises have been satisfied.

SEC. 76. Section 6179 is added to the Probate Code, to read:

6179. The repeal of former Sections 1050, 1051, 1052, and 1053 and the amendment of former Section 1054, by Chapter 842 of the Statutes of 1983, apply only to cases where the decedent died on or after January 1, 1985. If the decedent died before January 1, 1985, the case is governed by the former provisions as they would exist had Chapter 842 of the Statutes of 1983 not been enacted.

SEC. 76.5. Section 6221.5 of the Probate Code is amended to read:

6221.5. The execution of the attestation clause provided in the California statutory will by two or more witnesses satisfies Section 8220.

SEC. 77. Section 6327 of the Probate Code is amended to read:

6327. An appeal may be taken from any of the following:

(a) Any order described in Section 7240 made pursuant to this chapter.

(b) An order making or refusing to make a determination specified in paragraph (1), (2), or (8) of subdivision (a) of Section 6325.

(c) As provided in Section 17207 for an order made pursuant to Section 6326.

SEC. 77.5. Section 6527 of the Probate Code is amended to read:

6527. (a) The court may by order modify the term or conditions of the probate homestead right or terminate the probate homestead right at any time prior to entry of an order for final distribution of the decedent's estate if in the court's discretion to do so appears appropriate under the circumstances of the case.

(b) A petition for an order under this section may be filed by any of the following:

(1) The person for whose use the probate homestead is set apart.

(2) The testate or intestate successors of the decedent or other successors to the property set apart as a probate homestead.

(3) Persons having claims secured by liens or encumbrances on the property set apart as a probate homestead.

(c) Notice of the hearing on the petition shall be given to all the

persons listed in subdivision (b) as provided in Section 1220.

SEC. 78. Section 6607 of the Probate Code is amended to read:

6607. (a) Where proceedings for the administration of the estate of the decedent are not pending when the petition is filed under this chapter and the petition under this chapter is not joined with a petition for the probate of the decedent's will or for administration of the estate of the decedent, the petitioner shall give notice of the hearing by mail not less than 15 days before the hearing to each heir and devisee of the decedent, and to each person named as executor who is not petitioning, if known to the petitioner. A copy of the petition shall be sent with this notice of hearing to the surviving spouse, each child, and each devisee who is not petitioning.

(b) If the petition under this chapter is filed with a petition for the probate of the decedent's will or with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given to the persons and in the manner prescribed by Section 8003 and shall be included in the notice required by that section.

(c) If proceedings for the administration of the estate of the decedent are pending when the petition is filed under this chapter and the hearing of the petition for probate of the will or administration of the estate of the decedent is set for a day more than 15 days after the filing of the petition filed under this chapter, the petition under this chapter shall be set for hearing at the same time as the petition for probate of the will or for administration of the estate, and notice of hearing on the petition filed under this chapter shall be given by the petitioner as provided in Section 1220. If the hearing of the petition for probate of the will or for administration of the estate is not set for hearing for a day more than 15 days after the filing of the petition under this chapter, (1) the petition filed under this chapter shall be set for hearing at least 15 days after the date on which it is filed, (2) notice of the hearing on the petition filed under this chapter shall be given by the petitioner as provided in Section 1220, and (3) if the petition for probate of the will or for administration of the estate has not already been heard, that petition shall be continued until that date and heard at the same time unless the court otherwise orders.

SEC. 78.5. Section 6608 of the Probate Code is amended to read:

6608. If a petition is filed under this chapter, the personal representative, or the petitioner if no personal representative has been appointed, shall file with the clerk of the court, prior to the hearing of the petition, an inventory and appraisal in the form set forth in Section 8802. The appraisal shall be made as set forth in Part 3 (commencing with Section 8800) of Division 7. The personal representative or the petitioner, as the case may be, may appraise the assets which a personal representative could appraise under Section 8901.

SEC. 79. Section 6803 of the Probate Code is amended to read:

6803. (a) Subject to subdivision (b), all tangible personal

property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 7 (commencing with Section 7000) escheats to this state in accordance with Section 6800.

(b) The property described in subdivision (a) does not escheat to this state but goes to another jurisdiction if the other jurisdiction claims the property and establishes all of the following:

(1) The other jurisdiction is entitled to the property under its law.

(2) The decedent customarily kept the property in that jurisdiction prior to the decedent's death.

(3) This state has the right to escheat and take tangible personal property being administered as part of a decedent's estate in that jurisdiction if the decedent customarily kept the property in this state prior to the decedent's death.

SEC. 79.5. Section 6805 of the Probate Code is amended to read:

6805. (a) Subject to subdivision (b), all intangible property owned by the decedent that is subject to the control of a superior court of this state for purposes of administration and disposition under Division 7 (commencing with Section 7000) escheats to this state in accordance with Section 6800 whether or not the decedent was domiciled in this state at the time of the decedent's death.

(b) The property described in subdivision (a) does not escheat to this state but goes to another jurisdiction if the other jurisdiction claims the property and establishes all of the following:

(1) The other jurisdiction is entitled to the property under its laws.

(2) The decedent was domiciled in that jurisdiction at the time of the decedent's death.

(3) This state has the right to escheat and take intangible property being administered as part of a decedent's estate in that jurisdiction if the decedent was domiciled in this state at the time of the decedent's death.

SEC. 80. The heading of Part 1 of Division 7 of the Probate Code is repealed.

SEC. 80.5. Part 1 (commencing with Section 7000) is added to Division 7 of the Probate Code, to read:

PART 1. GENERAL PROVISIONS

CHAPTER 1. PASSAGE OF DECEDENT'S PROPERTY

7000. Subject to Section 7001, title to a decedent's property passes on the decedent's death to the person to whom it is devised in the decedent's last will or, in the absence of such a devise, to the decedent's heirs as prescribed in the laws governing intestate succession.

7001. The decedent's property is subject to administration under this code, except as otherwise provided by law, and is subject to the rights of beneficiaries, creditors, and other persons as provided by law.

CHAPTER 2. JURISDICTION AND COURTS

Article 1. Jurisdiction and Venue

7050. (a) The superior court has jurisdiction of proceedings under this code concerning the administration of the decedent's estate.

(b) The court in proceedings under this division is a court of general jurisdiction and the court, or a judge of the court, has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

7051. If the decedent was domiciled in this state at the time of death, the proper county for proceedings concerning administration of the decedent's estate is the county in which the decedent was domiciled, regardless of where the decedent died.

7052. If the decedent was not domiciled in this state at the time of death, the proper county for proceedings under this division is one of the following:

(a) If property of the nondomiciliary decedent is located in the county in which the nondomiciliary decedent died, the county in which the nondomiciliary decedent died.

(b) If no property of the nondomiciliary decedent is located in the county in which the nondomiciliary decedent died or if the nondomiciliary decedent did not die in this state, any county in which property of the nondomiciliary decedent is located, regardless of where the nondomiciliary decedent died. If property of the nondomiciliary decedent is located in more than one county, the proper county is the county in which a petition for ancillary administration is first filed, and the court in that county has jurisdiction of the administration of the estate.

Article 2. Disqualification of Judge

7060. (a) In addition to any other ground provided by law for disqualification of a judge, a judge is disqualified from acting under this division, except to order the transfer of a proceeding as provided in Article 3 (commencing with Section 7070), if any of the following circumstances exist:

(1) The judge is interested as a beneficiary or creditor.

(2) The judge is named as executor or trustee in the will.

(3) The judge is otherwise interested.

(b) A judge who participates in any manner in the drafting or execution of a will, including acting as a witness to the will, is disqualified from acting in any proceeding prior to and including the admission of the will to probate or in any proceeding involving its

validity or interpretation.

(c) The amendments made to former Section 303 by Section 27 of Chapter 923 of the Statutes of 1987 do not apply in any proceeding commenced prior to July 1, 1988.

Article 3. Transfer of Proceedings

7070. The court or judge shall order a proceeding under this division transferred to another county if there is no judge of the court in which the proceeding is pending who is qualified to act. This section does not apply if a judge qualified to act is assigned by the chairman of the Judicial Council to sit in the county and hear the proceeding.

7071. Transfer of a proceeding under this article shall be to another county in which property of the decedent is located or, if there is no other county in which property of the decedent is located, to an adjoining county.

7072. Upon petition of the personal representative or other interested person before the administration of the estate is closed, a proceeding transferred under this article may be retransferred to the court in which the proceeding was originally commenced if the court determines that both of the following conditions are satisfied:

(a) Another person has become judge of the court where the proceeding was originally commenced who is not disqualified to act in the administration of the estate.

(b) The convenience of the parties interested would be promoted by the retransfer.

CHAPTER 3. RULES OF PROCEDURE

Article 1. Trial by Jury

7200. Except as otherwise expressly provided in this division, there is no right to a jury trial in proceedings under this division.

Article 2. New Trials

7220. A motion for a new trial may be made only in the following cases:

(a) Contest of a will or revocation of probate of a will.

(b) Cases in which a right to jury trial is expressly granted, whether or not the case was tried by a jury.

Article 3. Appeals

7240. An appeal may be taken from the making of, or the refusal to make, any of the following orders:

(a) Granting or revoking letters testamentary, letters of administration, or letters of administration with the will annexed, but

not letters of special administration or letters of special administration with general powers.

(b) Admitting a will to probate or revoking the probate of a will.

(c) Setting aside a small estate under Section 6609.

(d) Setting apart a probate homestead or property claimed to be exempt from enforcement of a money judgment.

(e) Granting, modifying, or terminating a family allowance.

(f) Directing or authorizing the sale or conveyance or confirming the sale of property.

(g) Directing or authorizing the granting of an option to purchase property.

(h) Adjudicating the merits of a claim under Chapter 11 (commencing with Section 9860) of Part 5.

(i) Allocating debts under Chapter 3 (commencing with Section 11440) of Part 9.

(j) Settling an account of a personal representative.

(k) Instructing or directing a personal representative.

(*l*) Directing or allowing the payment of a debt, claim, devise, or attorney's fee.

(m) Determining the persons to whom distribution should be made.

(n) Distributing property.

(o) Determining that property passes to, or confirming that property belongs to, the surviving spouse under Section 13656.

(p) Authorizing a personal representative to invest or reinvest surplus money under Section 9732.

7241. (a) Except as provided in subdivisions (b) and (c), an appeal under Section 7240 stays the operation and effect of the order.

(b) Notwithstanding that an appeal is taken from the order, for the purpose of preventing injury or loss to a person or property, the trial court may direct the exercise of the powers of the personal representative, or may appoint a special administrator to exercise the powers, from time to time, as though no appeal were pending. Acts of the personal representative or special administrator pursuant to the directions of the court made under this subdivision are valid, regardless of the result of the appeal.

(c) An appeal under Section 7240 does not stay the operation and effect of the order if the court requires an undertaking, as provided in Section 917.9 of the Code of Civil Procedure, and the undertaking is not given.

7242. Notwithstanding the repeal of former Section 1297, an appeal may be taken from an order or the refusal to make an order:

(a) Determining heirship or the persons to whom distribution should be made, pursuant to former Sections 1190 to 1192, inclusive.

(b) Fixing an inheritance tax or determining that none is due.

Article 4. Orders and Transactions Affecting Property

7260. As used in this article, "transaction" means a transaction affecting title to property in the estate, including, but not limited to, the following:

(a) In the case of real property, a conveyance (including a sale, option, or order confirming a sale or option), a lease, the creation of a mortgage, deed of trust, or other lien or encumbrance, the setting apart of a probate homestead, or the distribution of property.

(b) In the case of personal property, a transfer of the property or the creation of a security interest or other lien on the property.

7261. If a transaction affecting real property in the estate is executed by the personal representative in accordance with the terms of a court order, the instrument shall include a statement that the transaction is made by authority of the order authorizing or directing the transaction and shall give the date of the order.

7262. A transaction executed by the personal representative in accordance with an order authorizing or directing the transaction has the same effect as if the decedent were living at the time of the transaction and had carried it out in person while having legal capacity to do so.

7263. If an order is made setting apart a probate homestead, confirming a sale or making a distribution of real property, or determining any other matter affecting title to real property in the estate, the personal representative shall record a certified copy of the order in the office of the county recorder in each county in which any portion of the real property is situated.

Article 5. United States as Interested Person

7280. Where compensation, pension, insurance, or other allowance is made or awarded by a department or bureau of the United States government to a decedent's estate, the department or bureau has the same right as an interested person to request special notice, to commence and prosecute an action on the bond of a personal representative, and to file written exceptions to a personal representative's account or contest the account.

CHAPTER 4. PUBLIC ADMINISTRATORS

Article 1. Taking Temporary Possession or Control of Property

7600. If a public officer or employee knows of property of a decedent that is subject to loss, injury, waste, or misappropriation and that ought to be in the possession or control of the public administrator, the officer or employee shall inform the public administrator.

7600.5. If a person dies in a hospital, convalescent hospital, or board and care facility without known next of kin, the person in

charge of the hospital or facility shall give immediate notice of that fact to the public administrator of the county in which the hospital or facility is located. If the notice required by this section is not given, the hospital or facility is liable for (1) any cost of interment incurred by the estate or the county as a result of the failure and (2) any loss to the estate or beneficiaries caused by loss, injury, waste, or misappropriation of property of the decedent as a result of the failure.

7601. (a) If no personal representative has been appointed, the public administrator of a county shall take prompt possession or control of property of a decedent in the county that is subject to loss, injury, waste, or misappropriation, or that the court orders into the possession or control of the public administrator after notice to the public administrator as provided in Section 1220.

(b) If property described in subdivision (a) is beyond the ability of the public administrator to take possession or control, the public administrator is not liable for failing to take possession or control of the property.

7602. (a) A public administrator who is authorized to take possession or control of property of a decedent under this article shall make a prompt search for other property, a will, and instructions for disposition of the decedent's remains.

(b) If a will is found, the public administrator or custodian of the will shall deliver the will as provided in Section 8200.

(c) If instructions for disposition of the decedent's remains are found, the public administrator shall promptly deliver the instructions to the person upon whom the right to control disposition of the decedent's remains devolves as provided in Section 7100 of the Health and Safety Code.

7603. (a) A public administrator who is authorized to take possession or control of property of a decedent pursuant to this article may issue a written certification of that fact. The written certification is effective for five days after the date of issuance.

(b) The public administrator may record a copy of the written certification in any county in which is situated real property of which the public administrator is authorized to take possession or control under this article.

(c) A financial institution or other person shall, without the necessity of inquiring into the truth of the written certification and without court order or letters being issued:

(1) Provide the public administrator information concerning property held in the sole name of the decedent.

(2) Grant the public administrator access to a safe deposit box rented in the sole name of the decedent for the purpose of inspection and removal of any will or instructions for disposition of the decedent's remains. Costs and expenses incurred in drilling or forcing a safe deposit box shall be borne by the estate of the decedent.

(3) Surrender to the public administrator property of the

decedent that is subject to loss, injury, waste, or misappropriation.

(d) Receipt of the written certification provided by this section:

(1) Constitutes sufficient acquittance for providing information or granting access to the safe deposit box, for removal of the decedent's will and instructions for disposition of the decedent's remains, and for surrendering property of the decedent.

(2) Fully discharges the county recorder, financial institution, or other person from any liability for granting access or for any act or omission of the public administrator with respect to the safe deposit box.

7604. If the public administrator takes possession or control of property of a decedent under this article, but another person is subsequently appointed personal representative, the public administrator is entitled to costs incurred for the preservation of the estate, together with a reasonable fee for services. The costs and fee are a proper and legal charge against the decedent's estate as an expense of administration.

Article 2. Appointment as Personal Representative

7620. The public administrator of the county in which the estate of a decedent may be administered shall promptly:

(a) Petition for appointment as personal representative of the estate if no person having higher priority has petitioned for appointment.

(b) Petition for appointment as personal representative of any other estate the public administrator determines is proper.

(c) Accept appointment as personal representative of an estate when so ordered by the court whether or not on petition of the public administrator, after notice to the public administrator as provided in Section 7621.

7621. (a) Except as otherwise provided in this section, appointment of the public administrator as personal representative shall be made, and letters issued, in the same manner and pursuant to the same procedure as for appointment of and issuance of letters to personal representatives generally.

(b) Appointment of the public administrator may be made on the court's own motion, after notice to the public administrator as provided in Section 1220.

(c) Letters may be issued to "the public administrator" of the county without naming the public administrator.

(d) The public administrator's oath and official bond are in lieu of the personal representative's oath and bond. Every estate administered under this chapter shall be charged a bond fee in the amount of twenty-five dollars ($25) plus one-fourth of 1 percent of the amount of an estate greater than ten thousand dollars ($10,000). The amount charged is an expense of administration and that amount shall be deposited in the county treasury.

7622. Except as otherwise provided in this chapter:

(a) The public administrator shall administer the estate in the same manner as a personal representative generally, and the provisions of this division apply to administration by the public administrator.

(b) The public administrator is entitled to receive the same compensation and allowances granted by this division to a personal representative generally.

7623. (a) As used in this section, "additional compensation" means the difference between the reasonable cost of the administration of an estate and the commission awarded under Sections 901 and 902.

(b) The public administrator may be awarded additional compensation if any of the following conditions are satisfied:

(1) A person having priority for appointment as personal representative has been given notice under Section 8110 of the public administrator's petition for appointment, and the person has not petitioned for appointment in preference to the public administrator.

(2) The public administrator has been appointed after the resignation or removal of a personal representative.

7624. (a) If after final distribution of an estate any money remains in the possession of the public administrator that should be paid over to the county treasurer pursuant to Chapter 5 (commencing with Section 11850) of Part 10, the court shall order payment to be made within 60 days.

(b) Upon failure of the public administrator to comply with an order made pursuant to subdivision (a), the district attorney of the county shall promptly institute proceedings against the public administrator and the sureties on the official bond for the amount ordered to be paid, plus costs.

Article 3. Deposit of Money of Estate

7640. (a) The public administrator shall, upon receipt, deposit all money of the estate in an insured account in a financial institution or with the county treasurer of the county in which the proceedings are pending.

(b) Upon deposit under this section the public administrator is discharged from further responsibility for the money deposited until the public administrator withdraws the money.

7641. Money deposited in a financial institution or with the county treasurer under this article may be withdrawn upon the order of the public administrator when required for the purposes of administration.

7642. (a) The public administrator shall credit each estate with the highest rate of interest or dividends that the estate would have received if the funds available for deposit had been individually and separately deposited.

(b) Interest or dividends credited to the account of the public

administrator in excess of the amount credited to the estates pursuant to subdivision (a) shall be deposited in the county general fund.

7643. (a) The county treasurer shall receive and safely keep all money deposited with the county treasurer under this chapter and pay the money out on the order of the public administrator when required for the purposes of administration. The county treasurer and sureties on the official bond of the county treasurer are responsible for the safekeeping and payment of the money.

(b) The county treasurer shall deliver to the State Treasurer or the Controller all money in the possession of the county treasurer belonging to the estate, if there are no beneficiaries or other persons entitled to the money, or the beneficiaries or other persons entitled to the money do not appear and claim it. Delivery shall be made under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

7644. (a) If a deposit in a financial institution is made under this article, money remaining unclaimed at the expiration of five years after the date of the deposit, together with the increase and proceeds of the deposit, shall be presumed abandoned in any of the following circumstances:

(1) The deposit belongs to the estate of a known decedent for which a personal representative has never been appointed.

(2) The deposit belongs to the estate of a known decedent for which a personal representative has been appointed but no order of distribution has been made due to the absence of interested persons or the failure of interested persons diligently to protect their interests by taking reasonable steps for the purpose of securing a distribution of the estate.

(b) The Controller may, at any time after the expiration of the five-year period, file a petition with the court setting forth the fact that the money has remained on deposit in a financial institution under the circumstances described in subdivision (a) for the five-year period, and requesting an order declaring that the money is presumptively abandoned and directing the holder of the money to pay the money to the State Treasurer.

(c) Upon presentation of a certified copy of a court order made under subdivision (b), the financial institution shall forthwith transmit the money to the State Treasurer for deposit in the State Treasury. The deposit shall be made as provided in Section 1310 of the Code of Civil Procedure. All money deposited in the State Treasury under the provisions of this section shall be deemed to be deposited in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure. The deposit shall be transmitted, received, accounted for, and disposed of as provided by Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

Article 4. Summary Disposition of Small Estates

7660. (a) If a public administrator takes possession or control of, or is appointed personal representative of, an estate pursuant to this chapter, the public administrator may summarily dispose of the estate in the manner provided in this article in either of the following circumstances:

(1) The total value of the property in the decedent's estate does not exceed the amount prescribed in Section 13100. The authority provided by this paragraph may be exercised only upon order of the court. The order may be made upon ex parte application. The fee to be allowed to the clerk for the filing of the application shall be set by the court.

(2) The total value of the property in the decedent's estate does not exceed ten thousand dollars ($10,000). The authority provided by this paragraph may be exercised without court authorization.

(b) Summary disposition may be made notwithstanding the existence of the decedent's will, if the will does not name an executor or if the named executor refuses to act.

(c) Nothing in this article precludes the public administrator from filing a petition with the court under any other provision of this division.

7661. A public administrator acting under authority of this article may:

(a) Withdraw money of the decedent on deposit in a financial institution.

(b) Collect any debts owed to the decedent.

(c) Sell personal property of the decedent. Sales may be made with or without notice, as the public administrator elects. Title to the property sold passes without the need for confirmation by the court.

(d) Sell real property of the decedent, subject to Article 6 (commencing with Section 10300) of Chapter 18 of Part 5. Title to the property sold passes with the public administrator's deed.

7662. The public administrator acting under authority of this article shall pay out the money of the estate in the following order:

(a) Costs of administration, including commissions and fees.

(b) Expenses of the decedent's last illness and of disposition of the remains of the decedent.

(c) Claims presented to the public administrator before distribution of the decedent's property pursuant to Section 7663. Claims shall be paid in the order prescribed in Section 11420. A creditor whose claim is paid under this subdivision is not liable for contribution to a creditor whose claim is presented after the payment.

7663. (a) After payment of debts pursuant to Section 7662, but in no case before four months after court authorization of the public administrator to act under this article or after the public administrator takes possession or control of the estate, the public administrator shall distribute to the decedent's beneficiaries any

money or other property of the decedent remaining in the possession of the public administrator.

(b) If there are no beneficiaries, the public administrator shall deposit the balance with the county treasurer for use in the general fund.

7664. A person to whom property is distributed under this article is personally liable for the unsecured debts of the decedent. Such a debt may be enforced against the person in the same manner as it could have been enforced against the decedent if the decedent had not died. In an action based on the debt, the person may assert any defenses available to the decedent if the decedent had not died. The aggregate personal liability of a person under this section shall not exceed the fair market value of the property distributed, valued as of the date of the distribution, less the amount of any liens and encumbrances on the property on that date.

7665. (a) The public administrator shall file with the clerk a statement showing the property of the decedent that came into possession of the public administrator and the disposition made of the property, together with receipts for all distributions. This subdivision does not apply to proceedings under paragraph (2) of subdivision (a) of Section 7660.

(b) The public administrator shall maintain a file of all receipts and records of expenditures for a period of three years after disposition of the property pursuant to Section 7663.

7666. (a) Except as provided in subdivision (b), the commissions payable to the public administrator and the attorney, if any, for the filing of an application pursuant to this article and for performance of any duty or service connected therewith, are those set out in Sections 901, 902, and 910.

(b) The public administrator is entitled to a minimum commission of three hundred fifty dollars ($350).

SEC. 81. The heading of Part 2 of Division 7 of the Probate Code is repealed.

SEC. 81.5. Part 2 (commencing with Section 8000) is added to Division 7 of the Probate Code, to read:

PART 2. OPENING ESTATE ADMINISTRATION

CHAPTER 1. COMMENCEMENT OF PROCEEDINGS

8000. (a) At any time after a decedent's death, any interested person may commence proceedings for administration of the estate of the decedent by a petition to the court for an order determining the date and place of the decedent's death and for either or both of the following:

(1) Appointment of a personal representative.

(2) Probate of the decedent's will.

(b) A petition for probate of the decedent's will may be made regardless of whether the will is in the petitioner's possession or is

lost, destroyed, or beyond the jurisdiction of the state.

8001. Unless good cause for delay is shown, if a person named in a will as executor fails to petition the court for administration of the estate within 30 days after the person has knowledge of the death of the decedent and that the person is named as executor, the person may be held to have waived the right to appointment as personal representative.

8002. (a) The petition shall contain all of the following information:

(1) The facts referred to in subparagraph (A) of paragraph (1) of subdivision (b) of Section 8005.

(2) The street number, street, and city, or other address, and the county, of the decedent's residence at the time of death.

(3) The name, age, address, and relation to the decedent of each heir and devisee of the decedent, so far as known to or reasonably ascertainable by the petitioner.

(4) The character and estimated value of the property in the estate.

(5) The name of the person for whom appointment as personal representative is petitioned.

(b) If the decedent left a will:

(1) The petitioner shall attach to the petition a photographic copy of the will. In the case of a holographic will or other will of which material provisions are handwritten, the petitioner shall also attach a typed copy of the will.

(2) If the will is in a foreign language, the petitioner shall attach an English language translation. On admission of the will to probate, the court shall certify to a correct translation into English, and the certified translation shall be filed with the will.

(3) The petition shall state whether the person named as executor in the will consents to act or waives the right to appointment.

8003. (a) The hearing on the petition shall be set for a day not less than 15 nor more than 30 days after the petition is filed. At the request of the petitioner made at the time the petition is filed, the hearing on the petition shall be set for a day not less than 30 nor more than 45 days after the petition is filed.

(b) The petitioner shall serve and publish notice of the hearing in the manner prescribed in Chapter 2 (commencing with Section 8100).

8004. (a) If appointment of the personal representative is contested, the grounds of opposition may include a challenge to the competency of the personal representative or the right to appointment. If the contest asserts the right of another person to appointment as personal representative, the contestant shall also file a petition and serve notice in the manner provided in Article 2 (commencing with Section 8110) of Chapter 2, and the court shall hear the two petitions together.

(b) If a will is contested, the applicable procedure is that provided in Article 3 (commencing with Section 8250) of Chapter 3.

8005. (a) At the hearing on the petition, the court may examine and compel any person to attend as a witness concerning any of the following matters:

(1) The time, place, and manner of the decedent's death.

(2) The place of the decedent's domicile and residence at the time of death.

(3) The character and value of the decedent's property.

(4) Whether or not the decedent left a will.

(b) The following matters shall be established:

(1) The jurisdictional facts, including:

(A) The date and place of the decedent's death.

(B) That the decedent was domiciled in this state or left property in this state at the time of death.

(C) The publication of notice under Article 3 (commencing with Section 8120) of Chapter 2.

(2) The existence or nonexistence of the decedent's will.

(3) That notice of the hearing was served as provided in Article 2 (commencing with Section 8110) of Chapter 2.

8006. (a) If the court finds that the matters referred to in paragraph (1) of subdivision (b) of Section 8005 are established, the court shall make an order determining the time and place of the decedent's death and the jurisdiction of the court. Where appropriate and on satisfactory proof, the order shall admit the decedent's will to probate and appoint a personal representative. The date the will is admitted to probate shall be included in the order.

(b) If through defect of form or error the matters referred to in paragraph (1) of subdivision (b) of Section 8005 are incorrectly stated in the petition but actually are established, the court has and retains jurisdiction to correct the defect or error at any time. No such defect or error makes void an order admitting the will to probate or appointing a personal representative or an order made in any subsequent proceeding.

8007. (a) Except as provided in subdivision (b), an order admitting a will to probate or appointing a personal representative, when it becomes final, is a conclusive determination of the jurisdiction of the court and cannot be collaterally attacked.

(b) Subdivision (a) does not apply in either of the following cases:

(1) The presence of fraud in the procurement of the court order.

(2) The court order is based on the erroneous determination of the decedent's death.

CHAPTER 2. NOTICE OF HEARING

Article 1. Contents

8100. The notice of hearing of a petition for administration of a decedent's estate, whether served under Article 2 (commencing with Section 8110) or published under Article 3 (commencing with

Section 8120), shall state substantially as follows:

NOTICE OF PETITION TO ADMINISTER

ESTATE of _____, ESTATE NO. _____

To all heirs, beneficiaries, creditors, and contingent creditors of _____ and persons who may be otherwise interested in the will or estate, or both:

A petition has been filed by _____ in the Superior Court of California, County of _____, requesting that _____ be appointed as personal representative to administer the estate of _____ [and for probate of the decedent's will, which is available for examination in the court file].

[The petition requests authority to administer the estate under the independent Administration of Estates Act. This will avoid the need to obtain court approval for many actions taken in connection with the estate. However, before taking certain actions, the personal representative will be required to give notice to interested persons unless they have waived notice or have consented to the proposed action. The petition will be granted unless good cause is shown why it should not be.]

The petition is set for hearing in Dept. No. ____

at _____
(Address)

on _____ at _____ .
(Date of hearing) (Time of hearing)

IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your objections or file written objections with the court before the hearing. Your appearance may be in person or by your attorney.

IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim with the court and mail a copy to the personal representative appointed by the court within four months from the date of first issuance of letters as provided in Section 9100 of the California Probate Code. The time for filing claims will not expire before four months from the date of the hearing noticed above.

YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may request special notice of the filing of an inventory and appraisal of estate assets or of any petition or account as provided in Section 1250 of the California Probate Code.

_____
(Name and address of petitioner,
or petitioner's attorney)

Article 2. Service of Notice

8110. At least 15 days before the hearing of a petition for administration of a decedent's estate, the petitioner shall serve notice of the hearing by mail or personal delivery on all of the following persons:

(a) Each heir of the decedent, so far as known to or reasonably ascertainable by the petitioner.

(b) Each devisee and executor named in any will being offered for probate.

8111. If the decedent's will involves or may involve a testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee resident in this state, or involves or may involve a devise for charitable purposes without an identified devisee, notice of hearing accompanied by a copy of the petition and of the will shall be served on the Attorney General.

8112. A general personal representative shall give notice of administration of the estate of the decedent to creditors under Chapter 2 (commencing with Section 9050), and to public entities under Chapter 5 (commencing with Section 9200), of Part 4.

8113. If a citizen of a foreign country dies without leaving a will or leaves a will without naming an executor, or if it appears that property will pass to a citizen of a foreign country, notice shall be given to a recognized diplomatic or consular official of the foreign country maintaining an office in the United States.

Article 3. Publication

8120. In addition to service of the notice of hearing as provided in Article 2 (commencing with Section 8110), notice of hearing of a petition for administration of a decedent's estate shall also be published before the hearing in the manner provided in this article.

8121. (a) The first publication date of the notice shall be at least 15 days before the hearing. Three publications in a newspaper published once a week or more often, with at least five days intervening between the first and last publication dates, not counting the publication dates, are sufficient.

(b) Notice shall be published in a newspaper of general circulation in the city where the decedent resided at the time of death, or where the decedent's property is located if the court has jurisdiction under Section 7052. If there is no such newspaper, the decedent did not reside in a city, or the property is not located in a city, then notice shall be published in a newspaper of general circulation in the county which is circulated within the area of the county in which the decedent resided or the property is located. If there is no such newspaper, notice shall be published in a newspaper of general circulation published in the State of California nearest to the county seat of the county in which the decedent resided or the property is located, and which is circulated within the area of the

county in which the decedent resided or the property is located.

(c) For purposes of this section, "city" means a charter city as defined in Section 34101 of the Government Code or a general law city as defined in Section 34102 of the Government Code.

8122. The Legislature finds and declares that, to be most effective, notice of hearing should be published in compliance with Section 8121. However, the Legislature recognizes the possibility that in unusual cases due to confusion over jurisdictional boundaries or oversight such notice may inadvertently be published in a newspaper that does not satisfy Section 8121. Therefore, to prevent a minor error in publication from invalidating what would otherwise be a proper proceeding, the Legislature further finds and declares that notice published in a good faith attempt to comply with Section 8121 is sufficient to provide notice of hearing and to establish jurisdiction if the court expressly finds that the notice was published in a newspaper of general circulation published within the county and widely circulated within a true cross-section of the area of the county in which the decedent resided or the property was located in substantial compliance with Section 8121.

8123. The caption of a notice under this article shall be in 8-point type or larger and the text shall be in 7-point type or larger.

8124. A petition for administration of a decedent's estate shall not be heard by the court unless an affidavit showing due publication of the notice of hearing has been filed with the court. The affidavit shall contain a copy of the notice and state the date of its publication.

8125. Notwithstanding Section 8100, after the notice of hearing is published and an affidavit filed, any subsequent publication of the notice ordered by the court may omit the information for creditors and contingent creditors.

CHAPTER 3. PROBATE OF WILL

Article 1. Production of Will

8200. (a) Unless a petition for probate of the will is earlier filed, the custodian of a will shall, within 30 days after having knowledge of the death of the testator, do both of the following:

(1) Deliver the will to the clerk of the superior court of the county in which the estate of the decedent may be administered. No fee shall be charged for compliance with the requirement of this paragraph.

(2) Mail a copy of the will to the person named in the will as executor, if the person's whereabouts is known to the custodian, or if not, to a person named in the will as a beneficiary, if the person's whereabouts is known to the custodian.

(b) A custodian of a will who fails to comply with the requirements of this section is liable for all damages sustained by any person injured by the failure.

(c) The clerk shall release a copy of a will delivered under this

section for attachment to a petition for probate of the will or otherwise on receipt of a court order for production of the will and payment of the required fee.

8201. If, on petition to the superior court of the county in which the estate of the decedent is being or may be administered alleging that a person has possession of a decedent's will, the court is satisfied that the allegation is true, the court shall order the person to produce the will.

8202. If the will of a person who was domiciled in this state at the time of death is detained in a court of any other state or country and cannot be produced for probate in this state, a certified photographic copy of the will may be admitted to probate in this state with the same force and effect as the original will. The same proof shall be required as if the original will were produced.

Article 2. Proof of Will

8220. Unless there is a contest of a will:

(a) The will may be proved on the evidence of one of the subscribing witnesses only, if the evidence shows that the will was executed in all particulars as prescribed by law.

(b) Evidence of execution of a will may be received by an affidavit of a subscribing witness to which there is attached a photographic copy of the will, or by an affidavit in the original will that includes or incorporates the attestation clause.

(c) If no subscribing witness resides in the county, but the deposition of a witness can be taken elsewhere, the court may direct the deposition to be taken. On the examination, the court may authorize a photographic copy of the will to be made and presented to the witness, and the witness may be asked the same questions with respect to the photographic copy as if the original will were present.

8221. If no subscribing witness is available as a witness within the meaning of Section 240 of the Evidence Code, the court may, if the will on its face conforms to all requirements of law, permit proof of the will by proof of the handwriting of the testator and one of the following:

(a) Proof of the handwriting of any one subscribing witness.

(b) Receipt in evidence of one of the following documents reciting facts showing due execution of the will:

(1) A writing in the will bearing the signatures of all subscribing witnesses.

(2) An affidavit of a person with personal knowledge of the circumstances of the execution.

8222. A holographic will may be proved in the same manner as other writings.

8223. The petition for probate of a lost or destroyed will shall include a written statement of the testamentary words or their substance. If the will is proved, the provisions of the will shall be set forth in the order admitting the will to probate.

8224. The testimony of each witness in a proceeding concerning the execution or provisions of a will, the testamentary capacity of the decedent, and other issues of fact, may be reduced to writing, signed by the witness, and filed, whether or not the will is contested. The testimony so preserved, or an official reporter's transcript of the testimony, is admissible in evidence in any subsequent proceeding concerning the will if the witness has become unavailable as a witness within the meaning of Section 240 of the Evidence Code.

8225. When the court admits a will to probate, that fact shall be recorded in the minutes by the clerk and the will shall be filed.

8226. (a) If no person contests the validity of a will or petitions for revocation of probate of the will within the time provided in this chapter, admission of the will to probate is conclusive, subject to Section 8007.

(b) A will may be admitted to probate notwithstanding prior admission to probate of another will or prior distribution of property in the proceeding. The will may not affect property previously distributed, but the court may determine how any provision of the will affects property not yet distributed and how any provision of the will affects provisions of another will.

Article 3. Contest of Will

8250. (a) When an objection is made under Section 8004, the court clerk shall issue a summons directed to the persons required by Section 8110 to be served with notice of hearing of a petition for administration of the decedent's estate. The summons shall contain a direction that the persons summoned file with the court a written pleading in response to the contest within 30 days after service of the summons.

(b) A person named as executor in the will is under no duty to defend a contest until the person is appointed personal representative.

8251. (a) The petitioner and any other interested person may jointly or separately answer the objection or demur to the objection within the time prescribed in the summons.

(b) Demurrer may be made on any of the grounds of demurrer available in a civil action. If the demurrer is sustained, the court may allow the contestant a reasonable time, not exceeding 15 days, within which to amend the objection. If the demurrer is overruled, the petitioner and other interested persons may, within 15 days thereafter, answer the objection.

(c) If a person fails timely to respond to the summons:

(1) The case is at issue notwithstanding the failure and the case may proceed on the petition and other documents filed by the time of the hearing, and no further pleadings by other persons are necessary.

(2) The person may not participate further in the contest, but the person's interest in the estate is not otherwise affected.

(3) The person is bound by the decision in the proceeding.

8252. (a) At the trial, the proponents of the will have the burden of proof of due execution. The contestants of the will have the burden of proof of lack of testamentary intent or capacity, undue influence, fraud, duress, mistake, or revocation. If the will is opposed by the petition for probate of a later will revoking the former, it shall be determined first whether the later will is entitled to probate.

(b) The court shall try and determine any contested issue of fact that affects the validity of the will.

8253. At the trial, each subscribing witness shall be produced and examined. If no subscribing witness is available as a witness within the meaning of Section 240 of the Evidence Code, the court may admit the evidence of other witnesses to prove the due execution of the will.

8254. The court may make appropriate orders, including orders sustaining or denying objections, and shall render judgment either admitting the will to probate or rejecting it, in whole or in part, and appointing a personal representative.

Article 4. Revocation of Probate

8270. (a) Within 120 days after a will is admitted to probate, any interested person, other than a party to a will contest and other than a person who had actual notice of a will contest in time to have joined in the contest, may petition the court to revoke the probate of the will. The petition shall include objections setting forth written grounds of opposition.

(b) Notwithstanding subdivision (a), a person who was a minor or who was incompetent and had no guardian or conservator at the time a will was admitted to probate may petition the court to revoke the probate of the will at any time before entry of an order for final distribution.

8271. (a) On the filing of the petition, the clerk shall issue a summons directed to the personal representative and to the heirs and devisees of the decedent, so far as known to the petitioner. The summons shall contain a direction that the persons summoned file with the court a written pleading in response to the petition within 30 days after service of the summons. Failure of a person timely to respond to the summons precludes the person from further participation in the revocation proceeding, but does not otherwise affect the person's interest in the estate.

(b) The summons shall be served and proceedings had as in the case of a contest of the will.

(c) If a person fails timely to respond to the summons:

(1) The case is at issue notwithstanding the failure and the case may proceed on the petition and other documents filed by the time of the hearing, and no further pleadings by other persons are necessary.

(2) The person may not participate further in the contest, but the

person's interest in the estate is not otherwise affected.

(3) The person is bound by the decision in the proceeding.

8272. (a) If it appears on satisfactory proof that the will should be denied probate, the court shall revoke the probate of the will.

(b) Revocation of probate of a will terminates the powers of the personal representative. The personal representative is not liable for any otherwise proper act done in good faith before the revocation, nor is any transaction void by reason of the revocation if entered into with a third person dealing in good faith and for value.

CHAPTER 4. APPOINTMENT OF PERSONAL REPRESENTATIVE

Article 1. General Provisions

8400. (a) A person has no power to administer the estate until the person is appointed personal representative and the appointment becomes effective. Appointment of a personal representative becomes effective when the person appointed is issued letters.

(b) Subdivision (a) applies whether or not the person is named executor in the decedent's will, except that a person named executor in the decedent's will may, before the appointment is made or becomes effective, pay funeral expenses and take necessary measures for the maintenance and preservation of the estate.

8401. (a) Notwithstanding Section 8400, a petitioner for appointment as personal representative may deliver money, securities, or personal property in the petitioner's possession to a financial institution, or allow a financial institution to retain money, securities, and personal property already in its possession, for deposit in an insured account in the financial institution.

(b) The petitioner shall obtain and file with the court a written receipt including the agreement of the financial institution that the money, securities, or other personal property, including any earnings thereon, shall not be allowed to be withdrawn except on order of the court.

(c) In receiving and retaining money, securities, or other personal property under this section, the financial institution is protected to the same extent as though it had received the money, securities, or other personal property from a person who had been appointed personal representative.

8402. (a) Notwithstanding any other provision of this chapter, a person is not competent to act as personal representative in any of the following circumstances:

(1) The person is under the age of majority.

(2) The person is subject to a conservatorship of the estate or is otherwise incapable of executing, or is otherwise unfit to execute, the duties of the office.

(3) There are grounds for removal of the person from office under Section 8502.

(4) The person is not a resident of the United States.

(5) The person is a surviving partner of the decedent and an interested person objects to the appointment.

(b) Paragraphs (4) and (5) of subdivision (a) do not apply to a person named as executor or successor executor in the decedent's will.

8403. (a) Before letters are issued, the personal representative shall take and subscribe an oath to perform, according to law, the duties of the office. The oath may be taken and dated on or after the time the petition for appointment as personal representative is signed, and may be filed with the clerk at any time after the petition is granted.

(b) The oath constitutes an acceptance of the office and shall be attached to or endorsed on the letters.

8404. (a) Before letters are issued, the personal representative, other than a trust company, shall file an acknowledgment of receipt of a statement of duties and liabilities of the office. The statement shall be in the form provided in subdivision (c) or, if the Judicial Council prescribes the form of the statement, in the form prescribed by the Judicial Council. The court may by local rule require the acknowledgment of receipt to include the personal representative's social security number and driver's license number, if any, provided that the court ensures their confidentiality.

(b) The statement of duties and liabilities, whether in the form provided in subdivision (c) or prescribed by the Judicial Council, does not supersede the law on which the statement is based.

(c) The form for the statement of duties and liabilities of a personal representative is as follows:

DUTIES AND LIABILITIES OF PERSONAL REPRESENTATIVE

When you have been appointed as personal representative of an estate by the court, you become an officer of the court and assume certain duties and obligations. An attorney is best qualified to advise you regarding these matters. You should clearly understand the following:

1. You must manage the estate assets with the care of a prudent person dealing with someone else's property. This means you must be cautious and you may not make any speculative investments. You may deposit estate funds in insured accounts in financial institutions, but you should consult with an attorney before making other investments.

2. You must keep the money and property in this estate separate from anyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is an estate account and not your personal account. Estate accounts, other than checking accounts intended for ordinary administration

expenses, must earn interest. Never deposit estate funds in your personal account or otherwise commingle them with anyone else's property. Securities in the estate must also be held in a name that shows they are estate property and not your personal property.

3. There are many restrictions on your authority to deal with estate property. You should not spend any of the estate's money until you have received permission from the court or if so advised by an attorney. You may reimburse yourself for official court costs paid by you to the county clerk and for the premium on your bond. You may not pay fees to your attorney, if any, or to yourself without prior order of the court. If you do not obtain the court's permission when it is required, you may be removed as personal representative, or you may have to reimburse the estate from your own personal funds, or both. You should consult with an attorney concerning the legal requirements affecting sales, leases, mortgages, and investments of estate property.

4. You must attempt to locate and take possession of all the decedent's property to be administered in the estate. You must arrange to have a court-appointed referee determine the value of the property unless this is waived by the court. (You, rather than the referee, must determine the value of certain "cash items"; an attorney can advise you as to this procedure.) Within three months after your appointment as personal representative you must file with the court an inventory of all the assets in the estate and within six months you must file an appraisal of the assets. At the time you file the inventory you must also file a change of ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death, as provided in Section 480 of the California Revenue and Taxation Code.

5. You must mail notice of administration to each known creditor of the decedent within four months after your appointment as personal representative. If the decedent received Medi-Cal assistance you must notify the State Director of Health Services within 90 days after appointment.

6. You should determine that there is appropriate and adequate insurance covering the assets and risks of the estate. Maintain the insurance in force during the entire period of the administration.

7. You must keep complete and accurate records of each financial transaction affecting the estate. You will have to prepare an account of all money and property you have received, what you have spent, and the date of each transaction. You must describe in detail what you have left after the payment of expenses. Your account will be reviewed by the court. Save your receipts because the court may ask to review them. If you do not file your accounts as required, the court will order you to do so. You may be removed as personal representative if you fail to comply.

This statement of duties and liabilities is a summary and is not a complete statement of the law. Your conduct as a personal representative is governed by the law itself and not by this summary.

If you have an attorney, you should cooperate with the attorney at all times. You and your attorney are responsible for completing the estate administration as promptly as possible. When in doubt, contact your attorney.

8405. Letters shall be signed by the clerk under the seal of the court and shall include:

(a) The county from which the letters are issued.

(b) The name of the person appointed as personal representative and whether the personal representative is an executor, administrator, administrator with the will annexed, or special administrator.

(c) A notation whether the personal representative is authorized to act under the Independent Administration of Estates Act, and whether the authority includes or excludes sale, exchange, or granting an option to purchase real property under the act.

8406. If an order appointing a personal representative is reversed on appeal for error, the person appointed is not liable for any otherwise proper act done in good faith before the reversal if entered into with a third person dealing in good faith and for value.

Article 2. Executors

8420. The person named as executor in the decedent's will has the right to appointment as personal representative.

8421. If a person is not named as executor in a will but it appears by the terms of the will that the testator intended to commit the execution of the will and the administration of the estate to the person, the person is entitled to appointment as personal representative in the same manner as if named as executor.

8422. (a) The testator may by will confer on a person the power to designate an executor or coexecutor, or successor executor or coexecutor. The will may provide that the persons so designated may serve without bond.

(b) A designation shall be in writing and filed with the court. Unless the will provides otherwise, if there are two or more holders of the power to designate, the designation shall be unanimous, unless one of the holders of the power is unable or unwilling to act, in which case the remaining holder or holders may exercise the power.

(c) Except as provided in this section, an executor does not have authority to name a coexecutor, or a successor executor or coexecutor.

8423. If the executor named in the will is a trust company that has sold its business and assets to, has consolidated or merged with, or is in any manner provided by law succeeded by, another trust company, the court may, and to the extent required by the Banking Law, Division 1 (commencing with Section 99) of the Financial Code, shall, appoint the successor trust company as executor.

8424. (a) If a person named as executor is under the age of

majority and there is another person named as executor, the other person may be appointed and may administer the estate until the majority of the minor, who may then be appointed as coexecutor.

(b) If a person named as executor is under the age of majority and there is no other person named as executor, another person may be appointed as personal representative, but the court may revoke the appointment on the majority of the minor, who may then be appointed as executor.

8425. If the court does not appoint all the persons named in the will as executors, those appointed have the same authority to act in every respect as all would have if appointed.

Article 3. Administrators With The Will Annexed

8440. An administrator with the will annexed shall be appointed as personal representative if no executor is named in the will or if the sole executor or all the executors named in the will have waived the right to appointment or are for any reason unwilling or unable to act.

8441. (a) Except as provided in subdivision (b), persons and their nominees are entitled to appointment as administrator with the will annexed in the same order of priority as for appointment of an administrator.

(b) A person who takes under the will has priority over a person who does not, but the court in its discretion may give priority to a person who does not take under the will if the person is entitled to a statutory interest that is a substantially greater portion of the estate than the devise to the person who takes under the will and the priority appears appropriate under the circumstances. A person who takes more than 50 percent of the value of the estate under the will or the person's nominee, or the nominee of several persons who together take more than 50 percent of the value of the estate under the will, has priority over other persons who take under the will.

8442. (a) Subject to subdivision (b), an administrator with the will annexed has the same authority over the decedent's estate as an executor named in the will would have.

(b) If the will confers a discretionary power or authority on an executor that is not conferred by law and the will does not extend the power or authority to other personal representatives, the power or authority shall not be deemed to be conferred on an administrator with the will annexed, but the court in its discretion may authorize the exercise of the power or authority.

Article 4. Administrators

8460. (a) If the decedent dies intestate, the court shall appoint an administrator as personal representative.

(b) The court may appoint one or more persons as administrator.

8461. Subject to the provisions of this article, the following persons are entitled to appointment as administrator in the following

order of priority:

(a) Surviving spouse.

(b) Children.

(c) Grandchildren.

(d) Other issue.

(e) Parents.

(f) Brothers and sisters.

(g) Grandparents.

(h) Issue of grandparents.

(i) Children of a predeceased spouse.

(j) Other next of kin.

(k) Relatives of a predeceased spouse.

(*l*) Conservator or guardian of the estate of the decedent acting in that capacity at the time of death.

(m) Public administrator.

(n) Creditors.

(o) Any other person.

8462. The surviving spouse of the decedent, a relative of the decedent, or a relative of a predeceased spouse of the decedent, has priority under Section 8461 only if one of the following conditions is satisfied:

(a) The surviving spouse or relative is entitled to succeed to all or part of the estate.

(b) The surviving spouse or relative either takes under the will of, or is entitled to succeed to all or part of the estate of, another deceased person who is entitled to succeed to all or part of the estate of the decedent.

8463. If the surviving spouse is a party to an action for separate maintenance, annulment, or dissolution of the marriage of the decedent and the surviving spouse, and was living apart from the decedent on the date of the decedent's death, the surviving spouse has priority next after brothers and sisters and not the priority prescribed in Section 8461.

8464. If a person otherwise entitled to appointment as administrator is a person under the age of majority or a person for whom a guardian or conservator of the estate has been appointed, the court in its discretion may appoint the guardian or conservator or another person entitled to appointment.

8465. (a) The court may appoint as administrator a person nominated by a person otherwise entitled to appointment or by the guardian or conservator of the estate of a person otherwise entitled to appointment. The nomination shall be made in writing and filed with the court.

(b) If a person making a nomination for appointment of an administrator is the surviving spouse, child, grandchild, other issue, parent, brother or sister, or grandparent of the decedent, the nominee has priority next after those in the class of the person making the nomination.

(c) If a person making a nomination for appointment of an

administrator is other than a person described in subdivision (b), the court in its discretion may appoint either the nominee or a person of a class lower in priority to that of the person making the nomination, but other persons of the class of the person making the nomination have priority over the nominee.

8466. If a person whose only priority is that of a creditor claims appointment as administrator, the court in its discretion may deny the appointment and appoint another person.

8467. If several persons have equal priority for appointment as administrator, the court may appoint one or more of them, or if such persons are unable to agree, the court may appoint the public administrator or a disinterested person in the same or the next lower class of priority as the persons who are unable to agree.

8468. If persons having priority fail to claim appointment as administrator, the court may appoint any person who claims appointment.

Article 5. Bond

8480. (a) Except as otherwise provided by statute, every person appointed as personal representative shall, before letters are issued, give a bond approved by the court. If two or more persons are appointed, the court may require either a separate bond from each or a joint and several bond.

(b) The bond shall be for the benefit of interested persons and shall be conditioned on the personal representative's faithful execution of the duties of the office according to law.

(c) If the person appointed as personal representative fails to give the required bond, letters shall not be issued. If the person appointed as personal representative fails to give a new, additional, or supplemental bond, or to substitute a sufficient surety, under court order, the person may be removed from office.

8481. (a) A bond is not required in either of the following cases:

(1) The will waives the requirement of a bond.

(2) All beneficiaries waive in writing the requirement of a bond and the written waivers are attached to the petition for appointment of a personal representative. This paragraph does not apply if the will requires a bond.

(b) Notwithstanding the waiver of a bond by a will or by all the beneficiaries, on petition of any interested person or on its own motion the court may for good cause require that a bond be given, either before or after issuance of letters.

8482. (a) The court in its discretion may fix the amount of the bond, including a fixed minimum amount, but the amount of the bond shall be not more than the sum of:

(1) The estimated value of the personal property.

(2) The probable annual gross income of the estate.

(3) If independent administration is granted as to real property, the estimated net proceeds of the real property authorized to be sold

under Part 6 (commencing with Section 10400).

(b) If the bond is given by personal sureties, the amount of the bond shall be twice the amount fixed by the court under subdivision (a).

(c) Before confirming a sale of real property the court shall require such additional bond as may be proper, not exceeding the maximum requirements of this section, treating the expected proceeds of the sale as personal property.

8483. (a) This section applies where property in the estate has been deposited in an insured account in a financial institution on condition that the property, including any earnings thereon, will not be withdrawn except on authorization of the court.

(b) In a proceeding to determine the amount of the bond of the personal representative (whether at the time of appointment or subsequently), on production of a receipt showing the deposit of property in the estate in the manner described in subdivision (a), the court may order that the property shall not be withdrawn except on authorization of the court and may, in its discretion, do either of the following:

(1) Exclude the property in determining the amount of the required bond or reduce the amount of the bond to an amount the court determines is reasonable.

(2) If a bond has already been given or the amount fixed, reduce the amount to an amount the court determines is reasonable.

8484. If a personal representative petitions to have the amount of the bond reduced, the petition shall include an affidavit setting forth the condition of the estate and notice of hearing shall be given as provided in Section 1220.

8485. A personal representative who petitions for substitution or release of a surety shall file with the petition an account in the form provided in Section 10900. The court shall not order a substitution or release unless the account is approved.

8486. The personal representative shall be allowed the reasonable cost of the bond for every year it remains in force.

8487. The provisions of the Bond and Undertaking Law, Chapter 2 (commencing with Section 995.010) of Title 14 of Part 2 of the Code of Civil Procedure, apply to a bond given under to this division, except to the extent this division is inconsistent.

8488. No action may be maintained against the sureties on the bond of the personal representative unless commenced not later than four years after the discharge of the personal representative.

Article 6. Removal From Office

8500. (a) Any interested person may petition for removal of the personal representative from office. A petition for removal may be combined with a petition for appointment of a successor personal representative under Article 7 (commencing with Section 8520). The petition shall state facts showing cause for removal.

(b) On a petition for removal, or if the court otherwise has reason to believe from the court's own knowledge or from other credible information, whether on the settlement of an account or otherwise, that there are grounds for removal, the court shall issue a citation to the personal representative to appear and show cause why the personal representative should not be removed. The court may suspend the powers of the personal representative and may make such orders as are necessary to deal with the property pending the hearing.

(c) Any interested person may appear at the hearing and file a written declaration showing that the personal representative should be removed or retained. The personal representative may demur to or answer the declaration. The court may compel the attendance of the personal representative and may compel the personal representative to answer questions, on oath, concerning the administration of the estate. Failure to attend or answer is cause for removal of the personal representative from office.

(d) The issues shall be heard and determined by the court. If the court is satisfied from the evidence that the citation has been duly served and cause for removal exists, the court shall remove the personal representative from office.

8501. On removal of a personal representative from office, the court shall revoke any letters issued to the personal representative, and the authority of the personal representative ceases.

8502. A personal representative may be removed from office for any of the following causes:

(a) The personal representative has wasted, embezzled, mismanaged, or committed a fraud on the estate, or is about to do so.

(b) The personal representative is incapable of properly executing the duties of the office or is otherwise not qualified for appointment as personal representative.

(c) The personal representative has wrongfully neglected the estate, or has long neglected to perform any act as personal representative.

(d) Removal is otherwise necessary for protection of the estate or interested persons.

(e) Any other cause provided by statute.

8503. (a) Subject to subdivision (b), an administrator may be removed from office on the petition of the surviving spouse or a relative of the decedent entitled to succeed to all or part of the estate, or the nominee of the surviving spouse or relative, if such person is higher in priority than the administrator.

(b) The court in its discretion may refuse to grant the petition:

(1) Where the petition is by a person or the nominee of a person who had actual notice of the proceeding in which the administrator was appointed and an opportunity to contest the appointment.

(2) Where to do so would be contrary to the sound administration of the estate.

8504. (a) After appointment of an administrator on the ground of intestacy, the personal representative shall be removed from office on the later admission to probate of a will.

(b) After appointment of an executor or administrator with the will annexed, the personal representative shall be removed from office on admission to probate of a later will.

8505. (a) A personal representative may be removed from office if the personal representative is found in contempt for disobeying an order of the court.

(b) Notwithstanding any other provision of this article, a personal representative may be removed from office under this section by a court order reciting the facts and without further showing or notice.

Article 7. Changes in Administration

8520. A vacancy occurs in the office of a personal representative who resigns, dies, or is removed from office under Article 6 (commencing with Section 8500), or whose authority is otherwise terminated.

8521. (a) Unless the will provides otherwise or the court in its discretion orders otherwise, if a vacancy occurs in the office of fewer than all personal representatives, the remaining personal representatives shall complete the administration of the estate.

(b) The court, on the filing of a petition alleging that a vacancy has occurred in the office of fewer than all personal representatives, may order the clerk to issue appropriate amended letters to the remaining personal representatives.

8522. (a) If a vacancy occurs in the office of a personal representative and there are no other personal representatives, the court shall appoint a successor personal representative.

(b) Appointment of a successor personal representative shall be made on petition and service of notice on interested persons in the manner provided in Article 2 (commencing with Section 8110) of Chapter 2, and shall be subject to the same priority as for an original appointment of a personal representative. The personal representative of a deceased personal representative is not, as such, entitled to appointment as successor personal representative.

8523. The court may make orders that are necessary to deal with the property between the time a vacancy occurs in the office of personal representative and appointment of a successor. Those orders may include appointment of a special administrator.

8524. (a) A successor personal representative is entitled to demand, sue for, recover and collect all the property of the decedent remaining unadministered, and may prosecute to final judgment any suit commenced by the former personal representative before the vacancy.

(b) No notice, process, or claim given to or served on the former personal representative need be given to or served on the successor in order to preserve any position or right the person giving the notice

or filing the claim may thereby have obtained or preserved with reference to the former personal representative.

(c) Except as provided in subdivision (b) of Section 8442 (authority of administrator with will annexed) or as otherwise ordered by the court, the successor personal representative has the powers and duties in respect to the continued administration that the former personal representative would have had.

8525. (a) The acts of the personal representative before a vacancy occurs are valid to the same extent as if no vacancy had later occurred.

(b) The liability of a personal representative whose office is vacant, or of the surety on the bond, is not discharged, released, or affected by the vacancy or by appointment of a successor, but continues until settlement of the accounts of the personal representative and delivery of all the property to the successor personal representative or other person appointed by the court to receive it. The personal representative shall render an account of the administration within the time that the court directs.

Article 8. Special Administrators

8540. (a) If the circumstances of the estate require the immediate appointment of a personal representative, the court may appoint a special administrator to exercise any powers that may be appropriate under the circumstances for the preservation of the estate.

(b) The appointment may be for a specified term, to perform particular acts, or on any other terms as the court may direct.

8541. (a) Appointment of a special administrator may be made at any time without notice or on such notice to interested persons as the court deems reasonable.

(b) In making the appointment, the court shall ordinarily give preference to the person entitled to appointment as personal representative. The court may appoint the public administrator.

(c) In the case of an appointment to perform a particular act, request for approval of the act may be included in the petition for appointment, and approval may be made on the same notice and at the same time as the appointment.

(d) The court may act, if necessary, to remedy any errors made in the appointment.

8542. (a) The clerk shall issue letters to the special administrator after both of the following conditions are satisfied:

(1) The special administrator gives any bond that may be required by the court under Section 8480.

(2) The special administrator takes the usual oath endorsed on the letters.

(b) Subdivision (a) does not apply to the public administrator.

(c) The letters of a special administrator appointed to perform a particular act shall include a notation of the particular act the special

administrator was appointed to perform.

8543. If the will waives the requirement of a bond for the executor and the person named as executor in the will is appointed special administrator, the court shall, subject to Section 8481, direct that no bond be given.

8544. (a) Except to the extent the order appointing a special administrator prescribes terms, the special administrator has the power to do all of the following without further order of the court:

(1) Take possession of all of the real and personal property of the decedent and preserve it from damage, waste, and injury.

(2) Collect all claims, rents, and other income belonging to the estate.

(3) Commence and maintain or defend suits and other legal proceedings.

(4) Sell perishable property.

(b) Except to the extent the order prescribes terms, the special administrator has the power to do all of the following on order of the court:

(1) Borrow money, or lease, mortgage, or execute a deed of trust on real property, in the same manner as an administrator.

(2) Pay the interest due or all or any part of an obligation secured by a mortgage, lien, or deed of trust on property in the estate, where there is danger that the holder of the security may enforce or foreclose on the obligation and the property exceeds in value the amount of the obligation. This power may be ordered only on petition of the special administrator or any interested person, with any notice that the court deems proper, and shall remain in effect until appointment of a successor personal representative. The order may also direct that interest not yet accrued be paid as it becomes due, and the order shall remain in effect and cover the future interest unless and until for good cause set aside or modified by the court in the same manner as for the original order.

(3) Exercise other powers that are conferred by order of the court.

(c) Except where the powers, duties, and obligations of a general personal representative are granted under Section 8545, the special administrator is not liable to a creditor on a claim against the decedent.

(d) A special administrator appointed to perform a particular act has no duty to take any other action to protect the estate.

8545. (a) Notwithstanding Section 8544, the court may grant a special administrator the same powers, duties, and obligations as a general personal representative where to do so appears proper. Notwithstanding Section 8541, if letters have not previously been issued to a general personal representative, the grant shall be on the same notice required under Section 8003 for appointment of a personal representative.

(b) The court may require as a condition of the grant that the special administrator give any additional bond that the court deems

proper. From the time of approving and filing any required additional bond, the special administrator shall have the powers, duties, and obligations of a general personal representative.

(c) If a grant is made under this section, the letters shall recite that the special administrator has the powers, duties, and obligations of a general personal representative.

8546. (a) The powers of a special administrator cease on issuance of letters to a general personal representative or as otherwise directed by the court.

(b) The special administrator shall promptly deliver to the general personal representative:

(1) All property in the possession of the special administrator. The court may authorize the special administrator to complete a sale or other transaction affecting property in the possession of the special administrator.

(2) A list of all creditors' claims of which the special administrator has knowledge. The list shall show the name and address of each creditor, the amount of the claim, and what action has been taken with respect to the claim. A copy of the list shall be filed in the court.

(c) The special administrator shall render a verified account of the proceedings in the same manner as a general personal representative is required to do. If the same person acts as both special administrator and general personal representative, the account of the special administrator may be combined with the first account of the general personal representative.

8547. (a) Subject to the limitations of this section, the court shall fix the commission and allowances of the special administrator and the fees of the attorney of the special administrator.

(b) The commission of the special administrator shall not be allowed until the close of administration, unless the general personal representative joins in the petition for allowance of the special administrator's commission or the court in its discretion so allows. Extra allowances of a special administrator may be allowed on settlement of the final account of the special administrator. The total commission paid and extra allowances made to the special administrator and general personal representative shall not, together, exceed the sums provided in this code for commission and extra allowances for the services of a personal representative. If the same person does not act as both special administrator and general personal representative, the commission and allowances shall be divided in such proportions as the court deems just or as may be agreed to by the special administrator and general personal representative.

(c) The total fees paid to the attorneys both of the special administrator and the general personal representative shall not, together, exceed the sums provided in this code as compensation for the ordinary and extraordinary services of attorneys for personal representatives. When the same attorney does not act for both the special administrator and general personal representative, the fees

shall be divided between the attorneys in such proportions as the court deems just or as agreed to by the attorneys.

(d) Fees of an attorney for extraordinary services to a special administrator may be awarded in the same manner and subject to the same standards as for extraordinary services to a general personal representative, except that the award of fees to the attorney may be made on settlement of the final account of the special administrator.

Article 9. Nonresident Personal Representative

8570. As used in this article, "nonresident personal representative" means a nonresident of the state appointed as personal representative, or a resident of the state appointed as personal representative who later removes from and resides without the state.

8571. Notwithstanding any other provision of this chapter and notwithstanding a waiver of a bond, the court in its discretion may require a nonresident personal representative to give a bond in an amount determined by the court.

8572. (a) Acceptance of appointment by a nonresident personal representative is equivalent to and constitutes an irrevocable and binding appointment by the nonresident personal representative of the Secretary of State to be the attorney of the personal representative for the purpose of this article. The appointment of the nonresident personal representative also applies to any personal representative of a deceased nonresident personal representative.

(b) All lawful processes, and notices of motion under Section 385 of the Code of Civil Procedure, in an action or proceeding against the nonresident personal representative with respect to the estate or founded on or arising out of the acts or omissions of the nonresident personal representative in that capacity may be served on the Secretary of State as the attorney of the nonresident personal representative.

8573. A nonresident personal representative shall sign and file with the court a statement of the permanent address of the nonresident personal representative. If the permanent address is changed, the nonresident personal representative shall promptly file in the same manner a statement of the change of address.

8574. (a) Service of process or notice of a motion under Section 385 of the Code of Civil Procedure in any action or proceeding against the nonresident personal representative shall be made by delivering to and leaving with the Secretary of State two copies of the summons and complaint or notice of motion and either of the following:

(1) A copy of the statement by the nonresident personal representative under Section 8573.

(2) If the nonresident personal representative has not filed a statement under Section 8573, a copy of the letters issued to the nonresident personal representative together with a written

statement signed by the party or attorney of the party seeking service that sets forth an address for use by the Secretary of State.

(b) The Secretary of State shall promptly mail by registered mail one copy of the summons and complaint or notice of motion to the nonresident personal representative at the address shown on the statement delivered to the Secretary of State.

(c) Personal service of process, or notice of motion, on the nonresident personal representative wherever found shall be the equivalent of service as provided in this section.

8575. Proof of compliance with Section 8574 shall be made in the following manner:

(a) In the event of service by mail, by certificate of the Secretary of State, under official seal, showing the mailing. The certificate shall be filed with the court from which process issued.

(b) In the event of personal service outside the state, by the return of any duly constituted public officer qualified to serve like process, or notice of motion, of and in the jurisdiction where the nonresident personal representative is found, showing the service to have been made. The return shall be attached to the original summons, or notice of motion, and filed with the court from which process issued.

8576. (a) Except as provided in this section, service made under Section 8574 has the same legal force and validity as if made personally in this state.

(b) A nonresident personal representative served under Section 8574 may appear and answer the complaint within 30 days from the date of service.

(c) Notice of motion shall be served on a nonresident personal representative under Section 8574 not less than 30 days before the date of the hearing on the motion.

8577. (a) Failure of a nonresident personal representative to comply with Section 8573 is cause for removal from office.

(b) Nothing in this section limits the liability of, or the availability of any other remedy against, a nonresident personal representative who is removed from office under this section.

SEC. 82. The heading of Part 3 of Division 7 of the Probate Code is repealed.

SEC. 82.5. Part 3 (commencing with Section 8800) is added to Division 7 of the Probate Code, to read:

PART 3. INVENTORY AND APPRAISAL

CHAPTER 1. GENERAL PROVISIONS

8800. (a) The personal representative shall file with the court clerk an inventory of property to be administered in the decedent's estate together with an appraisal of property in the inventory. An inventory and appraisal shall be combined in a single document.

(b) The inventory and appraisal shall be filed within four months

after letters are first issued to a general personal representative. The court may allow such further time for filing an inventory and appraisal as is reasonable under the circumstances of the particular case.

(c) The personal representative may file partial inventories and appraisals where appropriate under the circumstances of the particular case, but all inventories and appraisals shall be filed before expiration of the time allowed under subdivision (b).

8801. If the personal representative acquires knowledge of property to be administered in the decedent's estate that is not included in a prior inventory and appraisal, the personal representative shall file a supplemental inventory and appraisal of the property in the manner prescribed for an original inventory and appraisal. The supplemental inventory and appraisal shall be filed within four months after the personal representative acquires knowledge of the property. The court may allow such further time for filing a supplemental inventory and appraisal as is reasonable under the circumstances of the particular case.

8802. The inventory and appraisal shall separately list each item and shall state the fair market value of the item at the time of the decedent's death in monetary terms opposite the item.

8803. On the filing of an inventory and appraisal or a supplemental inventory and appraisal, the personal representative shall, pursuant to Section 1252, mail a copy to each person who has requested special notice.

8804. If the personal representative refuses or negligently fails to file an inventory and appraisal within the time allowed under this chapter, upon petition of an interested person:

(a) The court may compel the personal representative to file an inventory and appraisal pursuant to the procedure prescribed in Chapter 4 (commencing with Section 11050) of Part 8.

(b) The court may remove the personal representative from office.

(c) The court may impose on the personal representative personal liability for injury to the estate or to an interested person that directly results from the refusal or failure. The liability may include attorney's fees, in the court's discretion. Damages awarded pursuant to this subdivision are a liability on the bond of the personal representative, if any.

CHAPTER 2. INVENTORY

Article 1. General Provisions

8850. (a) The inventory, including partial and supplemental inventories, shall include all property to be administered in the decedent's estate.

(b) The inventory shall particularly specify the following property:

(1) Money owed to the decedent, including debts, bonds, and notes, with the name of each debtor, the date, the sum originally payable, and the endorsements, if any, with their dates. The inventory shall also specify security for the payment of money to the decedent, including mortgages and deeds of trust. If security for the payment of money is real property, the inventory shall include the recording reference or, if not recorded, a legal description of the real property.

(2) A statement of the interest of the decedent in a partnership, appraised as a single item.

(3) All money and other cash items, as defined in Section 8901, of the decedent.

(c) The inventory shall show, to the extent ascertainable by the personal representative, the portions of the property that are community, quasi-community, and separate property of the decedent.

8851. The discharge or devise in a will of any debt or demand of the testator against the executor or any other person is not valid against creditors of the testator, but is a specific devise of the debt or demand. The debt or demand shall be included in the inventory. If necessary, the debt or demand shall be applied in the payment of the debts of the testator. If not necessary for that purpose, the debt or demand shall be distributed in the same manner and proportion as other specific devises.

8852. (a) The personal representative shall take and subscribe an oath that the inventory contains a true statement of the property to be administered in the decedent's estate of which the personal representative has knowledge, and particularly of money of the decedent and debts or demands of the decedent against the personal representative. The oath shall be endorsed upon or attached to the inventory.

(b) If there is more than one personal representative, each shall take and subscribe the oath. If the personal representatives are unable to agree as to property to be included in the inventory, any personal representative may petition for a court order determining whether the property is to be administered in the decedent's estate. The determination shall be made pursuant to the procedure provided in Chapter 11 (commencing with Section 9860) of Part 5 or, if there is an issue of property belonging or passing to the surviving spouse, pursuant to Chapter 5 (commencing with Section 13650) of Part 2 of Division 8.

Article 2. Discovery of Property of Decedent

8870. (a) On petition by the personal representative or an interested person, the court may order that a citation be issued to a person to answer interrogatories, or to appear before the court and be examined under oath, or both, concerning any of the following allegations:

(1) That the person has wrongfully taken, concealed, or disposed of property in the estate of the decedent.

(2) That the person has knowledge or possession of any of the following:

(A) A deed, conveyance, bond, contract, or other writing that contains evidence of or tends to disclose the right, title, interest, or claim of the decedent to property.

(B) A claim of the decedent.

(C) A lost will of the decedent.

(b) If the person does not reside in the county in which the estate is being administered, the superior court either of the county in which the person resides or of the county in which the estate is being administered may issue a citation under this section.

(c) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

8871. Interrogatories may be put to a person cited to answer interrogatories pursuant to Section 8870. The interrogatories and answers shall be in writing. The answers shall be signed under penalty of perjury by the person cited. The interrogatories and answers shall be filed with the court.

8872. (a) At an examination witnesses may be produced and examined on either side.

(b) If upon the examination it appears that the allegations of the petition are true, the court may order the person to disclose the person's knowledge of the facts to the personal representative.

(c) If upon the examination it appears that the allegations of the petition are not true, the person's necessary expenses, including a reasonable attorney's fee, shall be charged against the petitioner or allowed out of the estate, in the discretion of the court.

8873. (a) On petition by the personal representative, the court may issue a citation to a person who has possession or control of property in the decedent's estate to appear before the court and make an account under oath of the property and the person's actions with respect to the property.

(b) Disobedience of a citation issued pursuant to this section may be punished as a contempt of the court issuing the citation.

8874. A person who, in bad faith, has wrongfully taken, concealed, or disposed of property in the estate of the decedent is liable for twice the value of the property, recoverable in an action by the personal representative for the benefit of the estate.

CHAPTER 3. APPRAISAL

Article 1. Procedure

8900. The appraisal of property in the inventory shall be made by the personal representative, probate referee, or independent expert as provided in this chapter.

8901. The personal representative shall appraise the following

property, excluding items whose fair market value is, in the opinion of the personal representative, an amount different from the face value of the property:

(a) Money and other cash items. As used in this subdivision, a "cash item" is a check, draft, money order, or similar instrument issued on or before the date of the decedent's death that can be immediately converted to cash.

(b) The following checks issued after the date of the decedent's death:

(1) Checks for wages earned before death.

(2) Refund checks, including tax and utility refunds, and Medicare, medical insurance, and other health care reimbursements and payments.

(c) Accounts (as defined in Section 21) in financial institutions.

(d) Cash deposits and money market funds or accounts, whether in a financial institution or otherwise, including a brokerage cash account.

(e) Proceeds of life and accident insurance policies and retirement plans and annuities payable on death in lump sum amounts.

8902. Except as otherwise provided by statute:

(a) The personal representative shall deliver the inventory to the probate referee designated by the court, together with necessary supporting data to enable the probate referee to make an appraisal of the property in the inventory to be appraised by the probate referee.

(b) The probate referee shall appraise all property other than that appraised by the personal representative.

8903. (a) The court may, for good cause, waive appraisal by a probate referee in the manner provided in this section.

(b) The personal representative may apply for a waiver together with the petition for appointment of the personal representative or together with another petition, or may apply for a waiver in a separate petition filed in the administration proceedings, but the application may not be made later than the time the personal representative delivers the inventory to the probate referee, if a probate referee has been designated. A copy of the proposed inventory and appraisal and a statement that sets forth the good cause that justifies the waiver shall be attached to the petition.

(c) The hearing on the waiver shall be not sooner than 15 days after the petition is filed. Notice of the hearing on the petition shall be given as provided in Section 1220, together with a copy of the petition and a copy of the proposed inventory and appraisal. In addition to the notice required by this subdivision, notice of the hearing, together with a copy of the petition and a copy of the proposed inventory and appraisal, shall be given as provided in Section 1220 to all of the following persons:

(1) Each known heir whose interest in the estate is affected by the waiver.

(2) Each known devisee whose interest in the estate is affected by the waiver.

(3) The State of California if any portion of the estate is to escheat to it and its interest in the estate is affected by the waiver.

(4) The probate referee, if a probate referee has been designated.

(d) A probate referee to whom notice is given under this section may oppose the waiver. If the opposition fails and the court determines the opposition was made without substantial justification, the court shall award litigation expenses, including reasonable attorney's fees, against the probate referee. If the opposition succeeds, the court may designate a different probate referee to appraise property in the estate.

(e) If the petition is granted, the inventory and appraisal attached to the petition shall be filed pursuant to Section 8800.

8904. (a) A unique, artistic, unusual, or special item of tangible personal property that would otherwise be appraised by the probate referee may, at the election of the personal representative, be appraised by an independent expert qualified to appraise the item.

(b) The personal representative shall make the election provided in subdivision (a) by a notation on the inventory delivered to the probate referee indicating the property to be appraised by an independent expert. The probate referee may, within five days after delivery of the inventory, petition for a court determination whether the property to be appraised by an independent expert is a unique, artistic, unusual, or special item of tangible personal property. If the petition fails and the court determines that the petition was made without substantial justification, the court shall award litigation expenses, including reasonable attorney's fees, against the probate referee.

8905. A person who appraises property, whether a personal representative, probate referee, or independent expert, shall sign the appraisal as to property appraised by that person, and shall take and subscribe an oath that the person has truly, honestly, and impartially appraised the property to the best of the person's ability.

8906. (a) At any time before the hearing on the petition for final distribution of the estate, an interested person may file with the court a written objection to the appraisal.

(b) The clerk shall fix a time, not less than 15 days after the filing, for a hearing on the objection.

(c) The person objecting shall give notice of the hearing, together with a copy of the objection, as provided in Section 1220. If the appraisal was made by a probate referee, the person objecting shall also mail notice of the hearing and a copy of the objection to the probate referee at least 15 days before the date set for the hearing.

(d) The person objecting to the appraisal has the burden of proof.

(e) Upon completion of the hearing, the court may make any orders that appear appropriate. If the court determines the objection was filed without reasonable cause or good faith, the court may order that the fees of the personal representative and attorney and any

costs incurred for defending the appraisal be made a charge against the person filing the objection.

8907. Neither the personal representative nor the personal representative's attorney is entitled to receive compensation for extraordinary services by reason of appraising any property in the estate.

8908. A probate referee who appraises property in the estate shall, upon demand by the personal representative or by a beneficiary:

(a) Provide any appraisal report or backup data in the possession of the probate referee used by the referee to appraise an item of property. The probate referee shall not disclose any information that is required by law to be confidential. The probate referee shall provide the appraisal report or backup data without charge. The cost of providing the appraisal report or backup data shall not be allowed as an expense of appraisal but is included in the commission for services of the probate referee.

(b) Justify the appraisal of an item of property if the appraisal is contested, whether by objection pursuant to Section 8906, by tax audit, or otherwise. The probate referee may be entitled to an additional fee for services provided to justify the appraisal, to be agreed upon by the personal representative or beneficiary and referee. If the personal representative or beneficiary and the probate referee are unable to agree, the court shall determine what fee, if any, is appropriate.

8909. A probate referee who appraises property in an estate shall retain possession of all appraisal reports and backup data used by the referee to appraise the property for a period of three years after the appraisal is filed. The probate referee shall, during the three-year period, offer the personal representative the reports and data used by the referee to appraise the property and deliver the reports and data to the personal representative on request. Any reports and data not requested by the personal representative may be destroyed at the end of the three-year period without further notice.

Article 2. Designation and Removal of Probate Referee

8920. The probate referee, when designated by the court, shall be among the persons appointed by the Controller to act as a probate referee for the county. If there is no person available who is able to act or if, pursuant to authority of Section 8922 or otherwise, the court does not designate a person appointed for the county, the court may designate a probate referee from another county.

8921. The court may designate a person requested by the personal representative as probate referee, on a showing by the personal representative of good cause for the designation. The following circumstances are included within the meaning of good cause, as used in this section:

(a) The probate referee has recently appraised the same property

that will be appraised in the administration proceeding.

(b) The probate referee will be making related appraisals in another proceeding.

(c) The probate referee has recently appraised similar property in another proceeding.

8922. The court has authority and discretion not to designate a particular person as probate referee even though appointed by the Controller to act as a probate referee for the county.

8923. The court may not designate as probate referee any of the following persons:

(a) The court clerk.

(b) A partner or employee of the judge or commissioner who orders the designation.

(c) The spouse of the judge or commissioner who orders the designation.

(d) A person, or the spouse of a person, who is related within the third degree either (1) to the judge or commissioner who orders the designation or (2) to the spouse of the judge or commissioner who orders the designation.

8924. (a) The court shall remove the designated probate referee in any of the following circumstances:

(1) The personal representative shows cause, including incompetence or undue delay in making the appraisal, that in the opinion of the court warrants removal of the probate referee. The showing shall be made at a hearing on petition of the personal representative. The personal representative shall mail notice of the hearing on the petition to the probate referee at least 15 days before the date set for the hearing.

(2) The personal representative shall have the right to remove the first probate referee who is designated by the court. No cause need be shown for removal under this paragraph. The personal representative may exercise the right at any time before the personal representative delivers the inventory to the probate referee. The personal representative shall exercise the right by filing an affidavit or declaration under penalty of perjury with the court and mailing a copy to the probate referee. Thereupon, the court shall remove the probate referee without any further act or proof.

(3) Any other cause provided by statute.

(b) Upon removal of the probate referee, the court shall designate another probate referee in the manner prescribed in Section 8920.

Article 3. Time For Probate Referee Appraisal

8940. (a) The probate referee shall promptly and with reasonable diligence appraise the property scheduled for appraisal by the probate referee in the inventory that the personal representative delivers to the referee.

(b) The probate referee shall, not later than 60 days after delivery of the inventory, do one of the following:

(1) Return the completed appraisal to the personal representative.

(2) Make a report of the status of the appraisal. The report shall show the reason why the property has not been appraised and an estimate of the time needed to complete the appraisal. The report shall be delivered to the personal representative and filed with the court.

8941. (a) The court shall, on petition of the personal representative or probate referee, or may, on the court's own motion, hear the report of the status of the appraisal. The court may issue a citation to compel the personal representative or the probate referee to attend the hearing.

(b) If the probate referee does not make the report of the status of the appraisal within the time required by this article or prescribed by the court, the court shall, on petition of the personal representative or may, on its own motion, cite the probate referee to appear before the court and show the reason why the property has not been appraised.

(c) Upon the hearing, the court may order any of the following:

(1) That the appraisal be completed within a time that appears reasonable.

(2) That the probate referee be removed. Upon removal of the probate referee the court shall designate another probate referee in the manner prescribed in Section 8920.

(3) That the commission of the probate referee be reduced by an amount the court deems appropriate, regardless of whether the commission otherwise allowable under the provisions of Sections 8960 to 8964 would be reasonable compensation for the services rendered.

(4) That the personal representative deliver to the probate referee all information necessary to allow the probate referee to complete the appraisal. Failure to comply with such an order is grounds for removal of the personal representative.

(5) Such other orders as may be appropriate.

Article 4. Commission and Expenses of Probate Referee

8960. (a) The commission and expenses provided by this article as compensation for the services of the probate referee shall be paid from the estate.

(b) The probate referee may not withhold the appraisal until the commission and expenses are paid, but shall deliver the appraisal to the personal representative promptly upon completion.

(c) The commission and expenses of the probate referee are an expense of administration, entitled to the priority for payment provided by Section 11420, and shall be paid in the course of administration.

8961. As compensation for services the probate referee shall receive all of the following:

(a) A commission of one-tenth of one percent of the total value of the property for each estate appraised, subject to Section 8963. The commission shall be computed excluding property appraised by the personal representative pursuant to Section 8901 or by an independent expert pursuant to Section 8904.

(b) Actual and necessary expenses for each estate appraised. The referee shall file with, or list on, the inventory and appraisal a verified account of the referee's expenses.

8963. (a) Notwithstanding Section 8961 and subject to subdivision (b), the commission of the probate referee shall in no event be less than seventy-five ($75) nor more than ten thousand dollars ($10,000) for any estate appraised.

(b) Upon application of the probate referee, the court may allow a commission in excess of ten thousand dollars ($10,000) if the court determines that the reasonable value of the referee's services exceeds that amount. Notice of the hearing under this subdivision shall be given as provided in Section 1220 and mailed to persons who have requested special notice. In addition, notice of the hearing shall be given as provided in Section 1220 to all of the following persons:

(1) Each known heir whose interest in the estate is affected.

(2) Each known devisee whose interest in the estate is affected.

(3) The State of California if any portion of the estate is to escheat to it and its interest in the estate is affected.

8964. If more than one probate referee appraises or participates in the appraisal of property in the estate, each is entitled to the share of the commission agreed upon by the referees or, absent an agreement, that the court allows. In no case shall the total commission for all referees exceed the maximum commission that would be allowable for a single referee.

Article 5. Transitional Provisions

8980. If an inventory is delivered to a probate referee for appraisal before July 1, 1989, all matters relating to the appraisal by the referee, including the property to be included in the appraisal, waiver of the appraisal, and compensation of the referee, are governed by the applicable law in effect before July 1, 1989, and are not governed by this chapter.

SEC. 83. Section 9001 of the Probate Code is amended to read:

9001. (a) The publication of notice under Section 8120 and the giving of notice of administration of the estate of the decedent under Chapter 2 (commencing with Section 9050) constitute notice to creditors of the requirements of this part.

(b) Nothing in subdivision (a) affects a notice or request to a public entity required by Chapter 5 (commencing with Section 9200).

SEC. 83.5. Section 9002 of the Probate Code is amended to read:

9002. Except as otherwise provided by statute:

(a) All claims shall be filed in the manner and within the time

provided in this part.

(b) A claim that is not filed as provided in this part is barred.

SEC. 84. Section 9050 of the Probate Code is amended to read:

9050. (a) If, within four months after the date letters are first issued to a general personal representative, the personal representative has knowledge of a creditor of the decedent, the personal representative shall give notice of administration of the estate to the creditor, subject to Section 9054. The notice shall be given as provided in Section 1215. For the purpose of this subdivision, a personal representative has knowledge of a creditor of the decedent if the personal representative is aware that the creditor has demanded payment from the decedent or the estate.

(b) The giving of notice under this chapter is in addition to the publication of the notice under Section 8120.

SEC. 84.5. Section 9103 of the Probate Code, as amended by Chapter 113 of the Statutes of 1988, is amended to read:

9103. (a) Upon petition by a creditor and notice of hearing given as provided in Section 1220, the court may allow a claim to be filed after expiration of the time for filing a claim if the creditor establishes that either of the following conditions are satisfied:

(1) Neither the creditor nor the attorney representing the creditor in the matter had actual knowledge of the administration of the estate within 15 days before expiration of the time provided in Section 9100, and the petition was filed within 30 days after either the creditor or the creditor's attorney had actual knowledge of the administration whichever occurred first.

(2) Neither the creditor nor the attorney representing the creditor in the matter had knowledge of the existence of the claim within 15 days before expiration of the time provided in Section 9100, and the petition was filed within 30 days after either the creditor or the creditor's attorney had knowledge of the existence of the claim whichever occurred first.

(b) This section applies only to a claim that relates to an action or proceeding pending against the decedent at the time of death or, if no action or proceeding is pending, to a cause of action that does not arise out of the creditor's conduct of a trade, business, or profession in this state.

(c) The court shall not allow a claim to be filed under this section after the earlier of the following times:

(1) The time the court makes an order for final distribution of the estate.

(2) One year after the time letters are first issued to a general personal representative.

(d) The court may condition the claim on terms that are just and equitable, and may require the appointment or reappointment of a personal representative if necessary. The court may deny the petition if a preliminary distribution to beneficiaries or a payment to general creditors has been made and it appears that the filing or establishment of the claim would cause or tend to cause unequal

treatment among beneficiaries or creditors.

(e) Regardless of whether the claim is later established in whole or in part, property distributed under court order and payments otherwise properly made before a claim is filed under this section are not subject to the claim. The personal representative, designee, or payee is not liable on account of the prior distribution or payment.

SEC. 85. Section 9253 of the Probate Code is amended to read:

9253. A claim barred by the statute of limitations may not be allowed by the personal representative or approved by the court or judge.

SEC. 85.3. Section 9255 of the Probate Code is amended to read:

9255. (a) The personal representative may allow a claim, or the court or judge may approve a claim, in part. The allowance or approval shall state the amount for which the claim is allowed or approved.

(b) A creditor who refuses to accept the amount allowed or approved in satisfaction of the claim may bring an action on the claim in the manner provided in Chapter 8 (commencing with Section 9350). The creditor may not recover costs in the action unless the creditor recovers an amount greater than that allowed or approved.

SEC. 85.5. Section 9257 of the Probate Code is repealed.

SEC. 86. Chapter 8 (commencing with Section 9350) is added to Part 4 of Division 7 of the Probate Code, to read:

CHAPTER 8. CLAIMS IN LITIGATION

Article 1. Claim on Cause of Action

9350. This article applies to any claim other than a claim on an action or proceeding pending against the decedent at the time of death.

9351. An action may not be commenced against a decedent's personal representative on a cause of action against the decedent unless a claim is first filed as provided in this part and the claim is rejected in whole or in part.

9352. (a) The filing of a claim tolls the statute of limitations otherwise applicable to the claim until allowance, approval, or rejection.

(b) The allowance or approval of a claim in whole or in part further tolls the statute of limitations during the administration of the estate as to the part allowed or approved.

9353. (a) Regardless of whether the statute of limitations otherwise applicable to a claim will expire before or after the following times, a claim rejected in whole or in part is barred as to the part rejected unless, within the following times, the creditor commences an action on the claim or the matter is referred to a referee or to arbitration:

(1) If the claim is due at the time the notice of rejection is given, three months after the notice is given.

(2) If the claim is not due at the time the notice of rejection is given, three months after the claim becomes due.

(b) The time during which there is a vacancy in the office of the personal representative shall be excluded from the period determined under subdivision (a).

9354. (a) In addition to any other county in which an action may be commenced, an action on the claim may be commenced in the county in which the proceeding for administration of the decedent's estate is pending.

(b) The plaintiff shall file a notice of the pendency of the action with the court clerk in the estate proceeding, together with proof of giving a copy of the notice to the personal representative as provided in Section 1215. Personal service of a copy of the summons and complaint on the personal representative is equivalent to the filing and giving of the notice. Any property distributed under court order, or any payment properly made, before the notice is filed and given is not subject to the claim. The personal representative, distributee, or payee is not liable on account of the prior distribution or payment.

(c) The prevailing party in the action shall be awarded court costs and, if the court determines that the prosecution or defense of the action against the prevailing party was unreasonable, the prevailing party shall be awarded reasonable litigation expenses, including attorney's fees.

Article 2. Claim on Pending Action or Proceeding

9370. (a) An action or proceeding pending against the decedent at the time of death may not be continued against the decedent's personal representative unless all of the following conditions are satisfied:

(1) A claim is first filed as provided in this part.

(2) The claim is rejected in whole or in part.

(3) Within three months after the notice of rejection is given, the plaintiff applies to the court in which the action or proceeding is pending for an order to substitute the personal representative in the action or proceeding. This paragraph applies only if the notice of rejection contains a statement that the plaintiff has three months within which to apply for an order for substitution.

(b) No recovery shall be allowed in the action against property in the decedent's estate unless proof is made of compliance with this section.

Article 3. Litigation Where No Claim Required

9390. (a) An action to establish the decedent's liability for which the decedent was protected by insurance may be commenced or continued under Section 550, and a judgment in the action may be enforced against the insurer, without first filing a claim as provided in this part.

(b) Unless a claim is first made as provided in this part, an action to establish the decedent's liability for damages outside the limits or coverage of the insurance may not be commenced or continued under Section 550.

(c) If the insurer seeks reimbursement under the insurance contract for any liability of the decedent, including, but not limited to, deductible amounts in the insurance coverage and costs and attorney's fees, an insurer defending an action under Section 550 shall file a claim as provided in this part. Failure to file a claim is a waiver of reimbursement under the insurance contract for any liability of the decedent.

9391. The holder of a mortgage or other lien on property in the decedent's estate, including but not limited to a judgment lien, may commence an action to enforce the lien against the property that is subject to the lien, without first filing a claim as provided in this part, if in the complaint the holder of the lien expressly waives all recourse against other property in the estate.

Article 4. Transitional Provision

9399. (a) This chapter applies to an action commenced on or after July 1, 1989.

(b) The applicable law in effect before July 1, 1989, continues to apply to an action commenced before July 1, 1989, notwithstanding its repeal by the act that enacted this chapter.

SEC. 86.5. Section 9605 is added to the Probate Code, to read:

9605. Appointment of a person as personal representative does not discharge any claim the decedent has against the person.

SEC. 87. Section 9614 is added to the Probate Code, to read:

9614. (a) On petition of an interested person, the court may suspend the powers of the personal representative in whole or in part, for a time, as to specific property or circumstances or as to specific duties of the office, or may make any other order to secure proper performance of the duties of the personal representative, if it appears to the court that the personal representative otherwise may take some action that would jeopardize unreasonably the interest of the petitioner. Persons with whom the personal representative may transact business may be made parties.

(b) The matter shall be set for hearing within 10 days unless the parties agree otherwise. Notice as the court directs shall be given to the personal representative and attorney of record, if any, and to any other parties named in the petition.

(c) The court may, in its discretion, if it determines that the petition was brought unreasonably and for the purpose of hindering the personal representative in the performance of the duties of the office, assess attorney's fees against the petitioner and make the assessment a charge against the interest of the petitioner.

SEC. 87.5. Section 9620 of the Probate Code is amended to read:

9620. If there is a dispute relating to the estate between the

personal representative and a third person, the personal representative may do either of the following:

(a) Enter into an agreement in writing with the third person to refer the dispute to a temporary judge designated in the agreement. The agreement shall be filed with the clerk, who shall thereupon, with the approval of the court, enter an order referring the matter to the designated person. The temporary judge shall proceed promptly to hear and determine the matter in controversy by summary procedure, without pleadings or discovery. The decision of the designated person shall be subject to Section 632 of the Code of Civil Procedure. Judgment shall be entered on the decision and shall be as valid and effective as if rendered by a judge of the court in an action against the personal representative or the third person commenced by ordinary process.

(b) Enter into an agreement in writing with the third person that a judge, pursuant to the agreement and with the written consent of the judge, both filed with the clerk within the time specified in Section 9352 for bringing an independent suit on the matter in dispute, may hear and determine the dispute pursuant to the procedure provided in subdivision (a).

SEC. 88. Section 9704 of the Probate Code is amended to read:

9704. When an order for distribution of money or personal property deposited pursuant to this chapter is made, the financial institution, trust company, or securities depository may deliver the property directly to the distributees and shall file receipts therefor with the clerk.

SEC. 88.5. Section 9863 of the Probate Code is repealed.

SEC. 89. Section 10003 of the Probate Code is amended to read:

10003. Subject to Part 4 (commencing with Section 21400) of Division 11 and to Sections 10001 and 10002, if estate property is required or permitted to be sold, the personal representative may:

(a) Use discretion as to which property to sell first.

(b) Sell the entire interest of the estate in the property or any lesser interest therein.

(c) Sell the property either at public auction or private sale.

SEC. 89.5. Section 10005 of the Probate Code is amended to read:

10005. (a) If any property in the estate is sold for more than the appraised value, the personal representative shall account for the proceeds of sale, including the excess over the appraised value.

(b) If any property in the estate is sold for less than the appraised value and the sale has been made in accordance with law, the personal representative is not responsible for the loss.

SEC. 90. Section 10301 of the Probate Code is amended to read:

10301. (a) If it appears from the inventory and appraisal that the value of the real property to be sold does not exceed five thousand dollars ($5,000), the personal representative may in his or her discretion dispense with publication of notice of sale and, in lieu of publication, post the notice of sale at the courthouse of the county in which the real property or some portion thereof lies.

(b) Except as provided in Section 10302, posting pursuant to this section shall be for at least 15 days before:

(1) In the case of a private sale, the day specified in the notice of sale as the day on or after which the sale is to be made.

(2) In the case of a public auction sale, the day of the auction.

SEC. 90.5. Section 10405 of the Probate Code is amended to read:

10405. A special administrator may be granted authority to administer the estate under this part if the special administrator is appointed with, or has been granted, the powers of a general personal representative.

SEC. 91. Part 8 (commencing with Section 10900) is added to Division 7 of the Probate Code, to read:

PART 8. ACCOUNTS

CHAPTER 1. GENERAL PROVISIONS

10900. (a) An account shall include both a financial statement as provided in subdivision (b) and a report of administration as provided in subdivision (c).

(b) The financial statement shall include a summary statement, together with supporting schedules, of:

(1) Property in all inventories.

(2) Receipts, excluding property listed in an inventory.

(3) Gains on sales.

(4) Other acquisitions of property.

(5) Disbursements.

(6) Losses on sales.

(7) Other dispositions of property.

(8) Property remaining on hand.

(c) The report of administration shall state the liabilities of the estate, including creditor claims, and all other matters necessary to show the condition of the estate. The statement of liabilities shall include the following information:

(1) Whether notice to creditors was given under Section 9050.

(2) Creditor claims filed, including the date of filing the claim, the name of the claimant, the amount of the claim, and the action taken on the claim.

(3) Creditor claims not paid, satisfied, or adequately provided for. As to each such claim, the statement shall indicate whether the claim is due and the date due, the date any notice of rejection was given, and whether the creditor has brought an action on the claim. The statement shall identify any real or personal property that is security for the claim, whether by mortgage, deed of trust, lien, or other encumbrance.

10901. On court order, or on request by an interested person filed with the clerk and a copy served on the personal representative, the personal representative shall produce for inspection and audit by the court or interested person the documents specified in the order or

request that support an account.

CHAPTER 2. WHEN ACCOUNT REQUIRED

10950. (a) On its own motion or on petition of an interested person, the court may order an account at any time.

(b) The court shall order an account on petition of an interested person made more than one year after the last account was filed or, if no previous account has been filed, made more than one year after issuance of letters to the personal representative.

(c) The court order shall specify the time within which the personal representative must file an account.

10951. The personal representative shall file a final account and petition for an order for final distribution of the estate when the estate is in a condition to be closed.

10952. A personal representative who resigns or is removed from office or whose authority is otherwise terminated shall, unless the court extends the time, file an account not later than 60 days after termination of authority. If the personal representative fails to so file the account, the court may compel the account pursuant to Chapter 4 (commencing with Section 11050).

10953. (a) As used in this section:

(1) "Incapacitated" means lack of capacity to serve as personal representative.

(2) "Legal representative" means the personal representative of a deceased personal representative or the conservator of the estate of an incapacitated personal representative.

(b) If a personal representative dies or becomes incapacitated and a legal representative is appointed for the deceased or incapacitated personal representative, the legal representative shall not later than 60 days after appointment, unless the court extends the time, file an account of the administration of the deceased or incapacitated personal representative.

(c) If a personal representative dies or becomes incapacitated and no legal representative is appointed for the deceased or incapacitated personal representative, or if the personal representative absconds, the court may compel the attorney for the deceased, incapacitated, or absconding personal representative or attorney of record in the estate proceeding to file an account of the administration of the deceased, incapacitated, or absconding personal representative.

(d) The legal representative or attorney shall exercise reasonable diligence in preparing an account under this section. Verification of the account may be made on information and belief. The court shall settle the account as in other cases. The court shall allow reasonable compensation to the legal representative or the attorney for preparing the account; the amount allowed shall be a charge against the estate that was being administered by the deceased, incapacitated, or absconding personal representative. Extraordinary

services for which a fee shall be allowed to the attorney under this subdivision include those services rendered by any paralegal performing the services under the direction and supervision of an attorney. The petition or application for compensation shall set forth the hours spent and services performed by the paralegal.

10954. (a) Notwithstanding any other provision of this part, the personal representative is not required to file an account if any of the following conditions is satisfied as to each person entitled to distribution from the estate:

(1) The person has executed and filed a written waiver of account or a written acknowledgment that the person's interest has been satisfied.

(2) Adequate provision has been made for satisfaction in full of the person's interest. This paragraph does not apply to a residuary devisee or a devisee whose interest in the estate is subject to abatement, payment of expenses, or accrual of interest or income.

(b) A waiver or acknowledgment under subdivision (a) shall be executed as follows:

(1) If the person entitled to distribution is an adult and competent, by that person.

(2) If the person entitled to distribution is a minor, by a person authorized to receive money or property belonging to the minor. If the waiver or acknowledgment is executed by a guardian of the estate of the minor, the waiver or acknowledgment may be executed without the need to obtain approval of the court in which the guardianship proceeding is pending.

(3) If the person entitled to distribution is a conservatee, by the conservator of the estate of the conservatee. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the conservatorship proceeding is pending.

(4) If the person entitled to distribution is a trust, by the trustee, but only if the named trustee's written acceptance of the trust is filed with the court. In the case of a trust that is subject to the continuing jurisdiction of the court pursuant to Chapter 4 (commencing with Section 17300) of Part 5 of Division 9, the waiver or acknowledgment may be executed without the need to obtain approval of the court.

(5) If the person entitled to distribution is an estate, by the personal representative of the estate. The waiver or acknowledgment may be executed without the need to obtain approval of the court in which the estate is being administered.

(6) If the person entitled to distribution is incapacitated, unborn, unascertained, or is a person whose identity or address is unknown, or is a designated class of persons who are not ascertained or are not in being, and there is a guardian ad litem appointed to represent the person entitled to distribution, by the guardian ad litem.

(c) Notwithstanding subdivision (a):

(1) The personal representative shall file a final report of administration at the time the final account would otherwise have

been required. The final report shall include the amount of fees and commissions paid or payable to the personal representative and to the attorney and shall set forth the basis for determining the amount.

(2) A creditor whose interest has not been satisfied may petition under Section 10950 for an account.

CHAPTER 3. SETTLEMENT OF ACCOUNT

11000. (a) The personal representative shall give notice of the hearing as provided in Section 1220.

(b) In addition to the notice required by subdivision (a), notice of the hearing shall be given as provided in Section 1220 to all of the following persons:

(1) Each known heir whose interest in the estate is affected by the account.

(2) Each known devisee whose interest in the estate is affected by the account.

(3) The State of California, if any portion of the estate is to escheat to it and its interest is affected by the account.

(4) If the estate is insolvent, each creditor who has filed a claim that is allowed or approved but is unpaid in whole or in part.

(c) If the petition for approval of the account requests fees, the notice of hearing shall so state.

(d) If the account is a final account and is filed together with a petition for an order for final distribution of the estate, the notice of hearing shall so state.

11001. All matters relating to an account may be contested for cause shown, including, but not limited to:

(a) The validity of an allowed or approved claim not reported in a previous account and not established by judgment.

(b) The value of property for purposes of distribution.

(c) Actions taken by the personal representative not previously authorized or approved by the court, subject to Section 10590 (Independent Administration of Estates Act).

11002. (a) The court may conduct any hearing that may be necessary to settle the account, and may cite the personal representative to appear before the court for examination.

(b) The court may appoint one or more referees to examine the account and make a report on the account, subject to confirmation by the court. The court may allow a reasonable compensation to the referee to be paid out of the estate.

(c) The court may make any orders that the court deems necessary to effectuate the provisions of this section.

11003. (a) If the court determines that the contest was without reasonable cause and in bad faith, the court may award against the contestant the fees, commissions, and costs of the personal representative and other expenses and costs of litigation, including attorney's fees, incurred to defend the account. The amount awarded is a charge against any interest of the contestant in the

estate and the contestant is personally liable for any amount that remains unsatisfied.

(b) If the court determines that the opposition to the contest was without reasonable cause and in bad faith, the court may award the contestant the costs of the contestant and other expenses and costs of litigation, including attorney's fees, incurred to contest the account. The amount awarded is a charge against the fees and commission or other interest of the personal representative in the estate and the personal representative is liable personally and on the bond, if any, for any amount that remains unsatisfied.

11004. The personal representative shall be allowed all necessary expenses in the administration of the estate.

11005. If a debt has been paid within the time prescribed in Section 9154 but without a claim having been filed and established in the manner prescribed by statute, in settling the account the court shall allow the amount paid if all of the following are proven:

(a) The debt was justly due.

(b) The debt was paid in good faith.

(c) The amount paid did not exceed the amount reasonably necessary to satisfy the indebtedness.

(d) The estate is solvent.

11006. (a) Except as provided in subdivision (b), the order settling an account is conclusive against all interested persons.

(b) A person under legal disability has the right, at any time before entry of an order for final distribution of the estate, to move for cause to reopen and examine the account or to proceed by action against the personal representative or the sureties on the bond. In the action the order settling the account is prima facie evidence of the correctness of the account.

CHAPTER 4. COMPELLING ACCOUNT

11050. Subject to the provisions of this chapter, if the personal representative does not file a required account, the court shall compel the account by punishment for contempt.

11051. (a) A citation shall be issued, served, and returned, requiring a personal representative who does not file a required account to appear and show cause why the personal representative should not be punished for contempt.

(b) If the personal representative purposefully evades personal service of the citation, the personal representative shall be removed from office.

11052. If the personal representative does not appear and file a required account, after having been duly cited, the personal representative may be punished for contempt or removed from office, or both, in the discretion of the court.

SEC. 91.2. The heading of Part 10 of Division 7 of the Probate Code is repealed.

SEC. 91.5. Part 10 (commencing with Section 11600) is added to

Division 7 of the Probate Code, to read:

PART 10. DISTRIBUTION OF ESTATE

CHAPTER 1. ORDER FOR DISTRIBUTION

Article 1. General Provisions

11600. The personal representative or an interested person may petition the court under this chapter for an order for preliminary or final distribution of the decedent's estate to the persons entitled thereto.

11601. (a) Notice of the hearing on the petition shall be given as provided in Section 1220.

(b) In addition to the notice required by subdivision (a), notice of the hearing shall be given as provided in Section 1220 to all of the following persons:

(1) Each known heir whose interest in the estate is affected by the petition.

(2) Each known devisee whose interest in the estate is affected by the petition.

(3) The State of California, if any portion of the estate is to escheat to it and its interest in the estate is affected by the petition.

(4) The Controller, if property is to be distributed to the state because there is no known beneficiary or if property is to be distributed to a beneficiary whose whereabouts is unknown. A copy of the latest account filed with the court shall be served on the Controller with the notice.

11602. The personal representative or any interested person may oppose the petition.

11603. (a) If the court determines that the requirements for distribution are satisfied, the court shall order distribution of the decedent's estate, or such portion as the court directs, to the persons entitled thereto.

(b) The order shall:

(1) Name the distributees and the share to which each is entitled.

(2) Provide that property distributed subject to a limitation or condition, including, but not limited to, an option granted under Chapter 16 (commencing with Section 9960) of Part 5, is distributed to the distributees subject to the terms of the limitation or condition.

11604. (a) This section applies where distribution is to be made to any of the following persons:

(1) The transferee of a beneficiary.

(2) Any person other than a beneficiary under an agreement, request, or instructions of a beneficiary or the attorney in fact of a beneficiary.

(b) The court on its own motion, or on motion of the personal representative or other interested person or of the public administrator, may inquire into the circumstances surrounding the

execution of, and the consideration for, the transfer, agreement, request, or instructions, and the amount of any fees, charges, or consideration paid or agreed to be paid by the beneficiary.

(c) The court may refuse to order distribution, or may order distribution on any terms that the court deems just and equitable, if the court finds either of the following:

(1) The fees, charges, or consideration paid or agreed to be paid by a beneficiary are grossly unreasonable.

(2) The transfer, agreement, request, or instructions were obtained by duress, fraud, or undue influence.

(d) Notice of the hearing on the motion shall be served on the beneficiary and on the persons described in subdivision (a) at least 15 days before the hearing in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure, as the court may direct.

11605. When a court order made under this chapter becomes final, the order binds and is conclusive as to the rights of all interested persons.

Article 2. Preliminary Distribution

11620. A petition may be made for an order for preliminary distribution of all, or a portion of, the share of a decedent's estate to which a beneficiary is entitled when two months have elapsed after letters are first issued to a general personal representative.

11621. (a) The court shall order distribution under this article if at the hearing it appears that the distribution may be made without loss to creditors or injury to the estate or any interested person.

(b) The order for distribution shall be stayed until any bond required by the court is filed.

11622. (a) If the court orders distribution before four months have elapsed after letters are first issued to a general personal representative, the court shall require a bond. The bond shall be in the amount of the distribution.

(b) If the court orders distribution after four months have elapsed after letters are first issued to a general personal representative, the court may require a bond. The bond shall be in the amount the court orders.

(c) Any bond required by the court shall be given by the distributee and filed with the court. The bond shall be conditioned on payment of the distributee's proper share of the debts of the estate, not exceeding the amount distributed.

11623. Notwithstanding any other provision of this chapter, if authority is granted to administer the estate without court supervision under the Independent Administration of Estates Act, Part 6 (commencing with Section 10400):

(a) The personal representative may petition the court for an order for preliminary distribution on notice as provided in Section 1220. Notwithstanding subdivision (f) of Section 1220, the court may not dispense with notice unless the time for filing creditor claims has

expired.

(b) The aggregate of all property distributed under this section shall not exceed 50 percent of the net value of the estate. For the purpose of this subdivision, "net value of the estate" means the excess of the value of the property in the estate, as determined by all inventories and appraisals on file with the court, over the total amount of all creditor claims and of all liens and encumbrances recorded or known to the personal representative not included in a creditor claim, excluding any estate tax lien occasioned by the decedent's death.

11624. The costs of a proceeding under this article shall be paid by the distributee or the estate in proportions determined by the court.

Article 3. Final Distribution

11640. (a) When all debts have been paid or adequately provided for, or if the estate is insolvent, and the estate is in a condition to be closed, a petition shall be filed for, and the court shall make, an order for final distribution of the estate.

(b) The court shall hear and determine and resolve in the order all questions arising under Section 6174 (ademption by satisfaction) or Section 6409 (advancements).

(c) If debts remain unpaid or not adequately provided for or if, for other reasons, the estate is not in a condition to be closed, the administration may continue for a reasonable time, subject to Chapter 1 (commencing with Section 12200) of Part 11 (time for closing estate).

11641. When an order settling a final account and for final distribution becomes final, the personal representative may immediately distribute the property in the estate to the persons entitled to distribution, without further notice or proceedings.

11642. Any property acquired or discovered after the court order for final distribution is made shall be distributed in the following manner:

(a) If the order disposes of the property, distribution shall be made in the manner provided in the order. The court may, in an appropriate case, require a supplemental account and make further instructions relating to the property.

(b) If the order does not dispose of the property, distribution shall be made either (1) in the manner ordered by the court on a petition for instructions or (2) under Section 12252 (administration after discharge), if the personal representative has been discharged.

CHAPTER 2. DETERMINATION OF PERSONS ENTITLED TO DISTRIBUTION

11700. At any time after letters are first issued to a general personal representative and before an order for final distribution is

made, the personal representative, or any person claiming to be a beneficiary or otherwise entitled to distribution of a share of the estate, may file a petition for a court determination of the persons entitled to distribution of the decedent's estate. The petition shall include a statement of the basis for the petitioner's claim.

11701. (a) Notice of the hearing on the petition shall be given as provided in Section 1220.

(b) In addition to the notice required by subdivision (a), notice of the hearing shall be given as provided in Section 1220 to all of the following persons:

(1) Each known heir whose interest in the estate is affected by the petition.

(2) Each known devisee whose interest in the estate is affected by the petition.

(3) The State of California if any portion of the estate is to escheat to it and its interest in the estate is affected by the petition.

11702. (a) Any interested person may appear and, at or before the time of the hearing, file a written statement of the person's interest in the estate. The written statement may be in support of, or in opposition to, the petition. No other pleadings are necessary and the written statement of each claimant shall be deemed denied by each of the other claimants to the extent the written statements conflict.

(b) If a person fails timely to file a writen statement:

(1) The case is at issue notwithstanding the failure and the case may proceed on the petition and written statements filed by the time of the hearing, and no further pleadings by other persons are necessary.

(2) The person may not participate further in the proceeding for determination of persons entitled to distribution, but the person's interest in the estate is not otherwise affected.

(3) The person is bound by the decision in the proceeding.

11703. The Attorney General shall be deemed to be a person entitled to distribution of the estate for purposes of this chapter if the estate involves or may involve any of the following:

(a) A charitable trust, other than a charitable trust with a designated trustee that may lawfully accept the trust.

(b) A devise for a charitable purpose without an identified beneficiary.

(c) An escheat to the State of California.

11704. (a) The court shall consider all evidence in the proceeding, including any statement made in a petition filed under Section 11700 and any statement of interest filed under Section 11702. The court shall not hear or consider a petition filed after the time prescribed in Section 11700.

(b) The personal representative may file papers and otherwise participate in the proceeding as a party to assist the court.

11705. (a) The court shall make an order that determines the persons entitled to distribution of the decedent's estate and specifies

their shares.

(b) When the court order becomes final it binds and is conclusive as to the rights of all interested persons.

CHAPTER 3. DISTRIBUTION OF PROPERTY IN ESTATE

11750. (a) The personal representative is responsible for distribution of the property in the estate in compliance with the terms of the court order for distribution.

(b) A distributee may demand, sue for, and recover from the personal representative or any person in possession, property to which the distributee is entitled.

(c) A distribution of property made in compliance with the terms of the court order for distribution is valid as to a good faith purchaser of the property for value.

11751. The personal representative shall obtain the receipt of the distributee for property in the estate distributed by the personal representative. In the case of real property, the personal representative shall record the court order for distribution or the personal representative's deed or both in the county in which the real property is located. Recordation of the order or deed is deemed to be a receipt of the distributee for the property.

11752. If personal property in the possession of a distributee is subject to possession by the distributee for life only, the personal representative shall demand an inventory of the property from the distributee. On receipt, the personal representative shall file the inventory with the court and deliver a copy to any distributee of the remainder.

11753. (a) Distribution in compliance with the court order entitles the personal representative to a full discharge with respect to property included in the order.

(b) The personal representative shall, before or at the time of the petition for discharge, file receipts for all property in the estate. In the case of real property, the personal representative shall file a statement that identifies the date and place or location of the recording and other appropriate recording information for the court order for distribution or the personal representative's deed.

(c) The court may excuse the filing of a receipt on a showing that the personal representative is unable, after reasonable effort, to obtain a receipt and that the property has been delivered to or is in the possession of the distributee.

CHAPTER 4. DECEASED DISTRIBUTEE

11801. (a) Except as provided in subdivision (b), the share in a decedent's estate of a beneficiary who survives the decedent but who dies before distribution shall be distributed under this chapter with the same effect as though the distribution were made to the beneficiary while living.

(b) Distribution may not be made under this chapter if the decedent's will provides that the beneficiary is entitled to take under the will only if the beneficiary survives the date of distribution or other period stated in the will and the beneficiary fails to survive the date of distribution or other period.

11802. If a beneficiary satisfies the requirement of Section 11801, the beneficiary's share in the decedent's estate shall be distributed as follows:

(a) Except as otherwise provided in this section, distribution shall be made to the personal representative of the estate of the beneficiary for the purpose of administration in the estate of the beneficiary.

(b) If the beneficiary was issue of the decedent and died intestate while under the age of majority and not having been emancipated, distribution shall be made directly to the heirs of the beneficiary without administration in the estate of the beneficiary.

(c) If a person entitled to the beneficiary's share makes application under Division 8 (commencing with Section 13000) (disposition of estate without administration), distribution shall be made under Division 8.

CHAPTER 5. DEPOSIT WITH COUNTY TREASURER

11850. Subject to Section 11851, the personal representative may deposit property to be distributed with the county treasurer of the county in which the proceedings are pending in the name of the distributee in any of the following cases:

(a) The property remains in the possession of the personal representative unclaimed or the whereabouts of the distributee is unknown.

(b) The distributee refuses to accept or give a receipt for the property.

(c) The distributee is a minor or incompetent person who has no guardian, conservator, or other fiduciary to receive the property or person authorized to give a receipt for the property.

(d) For any other reason the property cannot be distributed, and the personal representative desires discharge. Notwithstanding Section 11851, deposit may not be made under this subdivision except on court order.

11851. (a) If property authorized by Section 11850 to be deposited with the county treasurer consists of money, the personal representative may deposit the money.

(b) If property authorized by Section 11850 to be deposited with the county treasurer consists of personal property other than money, the personal representative may not deposit the personal property except on court order. If it appears to the court that sale is for the benefit of interested persons, the court shall order the personal property sold, and the proceeds of sale, less expenses of sale allowed by the court, shall be deposited in the county treasury. If it appears

to the court that sale is not for the benefit of interested persons, the court shall order the personal property deposited with the Controller, to be held subject to the provisions of Chapter 6 (commencing with Section 11900).

11852. The county treasurer shall give a receipt for a deposit made under this chapter and is liable on the official bond of the county treasurer for the money deposited. The receipt has the same effect as if executed by the distributee.

11853. If money is deposited or is already on deposit with the county treasurer, the personal representative shall deliver to the county treasurer a certified copy of the order for distribution.

11854. (a) A person may claim money on deposit in the county treasury by filing a petition with the court that made the order for distribution. The petition shall show the person's claim or right to the property. The petition shall state the facts required to be stated in a petition for escheated property filed under Section 1355 of the Code of Civil Procedure. On the filing of the petition, the same proceedings shall be had as are required by that section, except that the hearing shall be ex parte unless the court orders otherwise.

(b) If so ordered by the court, a copy of the petition shall be served on the Attorney General. The Attorney General may answer the petition, at the Attorney General's discretion.

(c) If the court is satisfied of the claimant's right to the property claimed, the court shall make an order establishing the right. On presentation of a certified copy of the order, the county auditor shall draw a warrant on the county treasurer for the amount of money covered by the order.

(d) A claim for money distributed in the estate of a deceased person made after the deposit of the property in the State Treasury is governed by the provisions of Chapter 3 (commencing with Section 1335) of Title 10 of Part 3 of the Code of Civil Procedure.

CHAPTER 6. DISTRIBUTION TO STATE

11900. (a) The court shall order property that is not ordered distributed to known beneficiaries to be distributed to the state.

(b) Insofar as practicable, any real property or tangible personal property shall be converted to money before distribution to the state.

11901. If the court orders distribution of property in the decedent's estate to the state, and the order includes words that otherwise create a trust in favor of unknown or unidentified persons as a class, the distribution shall vest in the state both legal and equitable title to the property.

11902. (a) If the court orders distribution to the state, the personal representative shall promptly:

(1) Deliver any money to the State Treasurer.

(2) Deliver any personal property other than money to the Controller for deposit in the State Treasury.

(3) Cause a certified copy of the order to be recorded in the office

of the county recorder of each county in which any real property is situated.

(b) At the time of making a delivery of property or recordation under this section, the personal representative shall deliver to the Controller a certified copy of the order for distribution together with a statement of the date and place or location of each recording and other appropriate recording information.

11903. (a) Property distributed to the state shall be held by the Treasurer for a period of five years from the date of the order for distribution, within which time any person may claim the property in the manner provided by Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

(b) A person who does not claim the property within the time prescribed in this section is forever barred, and the property vests absolutely in the state, subject to the provisions of Title 10 (commencing with Section 1300) of Part 3 of the Code of Civil Procedure.

11904. No deposit of property in an estate shall be made in the county treasury by a personal representative if any other property in the estate is to be or has been distributed to the state under this chapter, but the property that would otherwise be deposited in the county treasury shall be transmitted promptly to the State Treasurer or Controller as provided in this chapter.

CHAPTER 7. PARTITION OR ALLOTMENT OF PROPERTY

11950. (a) If two or more beneficiaries are entitled to the distribution of undivided interests in property and have not agreed among themselves to a partition, allotment, or other division of the property, any of them, or the personal representative at the request of any of them, may petition the court to make a partition, allotment, or other division of the property that will be equitable and will avoid the distribution of undivided interests.

(b) A proceeding under this chapter is limited to interests in the property that are subject to administration and does not include other interests except to the extent the owners of other interests in the property consent to be bound by the partition, allotment, or other division.

11951. (a) A petition under this chapter may be filed with the clerk at any time before an order for distribution of the affected property becomes final.

(b) The petition shall:

(1) Describe the property.

(2) State the names of the persons having or claiming undivided interests.

(3) Describe the undivided interests, so far as known to the petitioner.

11952. (a) Notice of the hearing on the petition shall be given as provided in Section 1220 to the personal representative and to the

persons entitled to distribution of the undivided interests.

(b) At the hearing the persons entitled to distribution of the undivided interests shall be considered the parties to the proceeding whether or not they have appeared or filed a responsive pleading. No one shall be considered as a plaintiff or as a defendant.

(c) Any objection to the jurisdiction of the court shall be made and resolved in the manner prescribed in Chapter 11 (commencing with Section 9860) of Part 5.

11953. (a) The court shall partition, allot, or otherwise divide the property so that each party receives property of a value proportionate to the party's interest in the whole.

(b) The court may direct the personal representative to sell property when, under the circumstances, sale would be more equitable than partition and when the property cannot conveniently be allotted to any one party. The sale shall be conducted in the same manner as other sales made during administration of an estate.

(c) Any two or more parties may agree to accept undivided interests.

11954. (a) The court, in its discretion, may appoint one or three referees to partition property capable of being partitioned, if requested to do so by a party. The number of referees appointed must conform to the request of at least one of the parties.

(b) The referees shall have the powers and perform the duties of referees in, and the court shall have the same powers with respect to their report as in, partition actions under Title 10.5 (commencing with Section 872.010) of Part 2 of the Code of Civil Procedure.

11955. The expenses of partition shall be equitably apportioned by the court among the parties, but each party must pay the party's own attorney's fees. The amount charged to each party shall be included and specified in the order and, to the extent unpaid, constitutes a lien on the property allotted to the party.

11956. (a) The partition, allotment, or other division made by the court shall control in proceedings for distribution, unless modified for good cause on reasonable notice.

(b) The proceedings leading to the partition, allotment, or other division may be reviewed on appeal from the order for distribution.

CHAPTER 8. INTEREST AND INCOME ACCRUING DURING ADMINISTRATION

12000. The provisions of this chapter apply where the intention of the testator is not otherwise indicated by the will.

12001. If interest is payable under this chapter:

(a) The rate of interest is one percentage point greater than the minimum rate that would be payable on a Series EE United States savings bond purchased one year after the date of the decedent's death and held to maturity. If there is no minimum rate payable on a Series EE United States savings bond, the rate of interest is three percentage points less than the legal rate on judgments in effect one

year after the date of the decedent's death.

(b) The rate of interest provided in subdivision (a) shall remain fixed at the applicable rate in effect one year after the date of the decedent's death and shall not be recomputed in the event of a change in the applicable rate thereafter.

12002. (a) Except as provided in this section, a specific devise does not bear interest.

(b) A specific devise carries with it income on the devised property from the date of death, less expenses attributable to the devised property during administration of the estate. For purposes of this section, expenses attributable to property are expenses that result directly from the use or ownership of the property, including property tax and tax on the income from the property, but excluding estate tax.

(c) If income of specifically devised property is not sufficient to pay expenses attributable to the property, the deficiency shall be paid out of the estate until the property is distributed to the devisee or the devisee takes possession of or occupies the property, whichever occurs first. To the extent a deficiency paid out of the estate is attributable to the period that commences one year after the testator's death, whether paid during or after expiration of the one year period following the date of death, the amount paid is a charge against the share of the devisee, and the personal representative has an equitable lien on the specifically devised property as against the devisee in the amount paid.

(d) If specifically devised property is sold during administration of the estate, the devisee is entitled to the net income from the property until the date of sale, and to interest on the net sale proceeds thereafter.

12003. If a general pecuniary devise, including a general pecuniary devise in trust, is not distributed within one year after the testator's death, the devise bears interest thereafter.

12004. (a) An annuity commences at the testator's death and shall be paid at the end of the annual, monthly, or other specified period.

(b) If an annuity is not paid at the end of the specified period, it bears interest thereafter, but no interest accrues during the first year after the testator's death.

12005. A devisee of a devise for maintenance is entitled to interest on the amount of any unpaid accumulations of the payments held by the personal representative on each anniversary of the testator's death, computed from the date of the anniversary.

12006. Net income received during administration not paid under other provisions of this chapter and not otherwise devised shall be distributed pro rata as income among all distributees who receive either residuary or intestate property. If a distributee takes for life or for a term of years, the pro rata share of income belongs to the tenant for life or for the term of years.

12007. This chapter applies only in cases where the decedent

died on or after July 1, 1989. In cases where the decedent died before July 1, 1989, the applicable law in effect before July 1, 1989, continues to apply.

SEC. 92.5. The heading of Part 11 of Division 7 of the Probate Code is repealed.

SEC. 93. Part 11 (commencing with Section 12200) is added to Division 7 of the Probate Code, to read:

PART 11. CLOSING ESTATE ADMINISTRATION

CHAPTER 1. TIME FOR CLOSING ESTATE

12200. The personal representative shall either petition for an order for final distribution of the estate or make a report of status of administration not later than the following times:

(a) In an estate for which a federal estate tax return is not required, within one year after the date of issuance of letters.

(b) In an estate for which a federal estate tax return is required, within 18 months after the date of issuance of letters.

12201. If a report of status of administration is made under Section 12200:

(a) The report shall show the condition of the estate, the reasons why the estate cannot be distributed and closed, and an estimate of the time needed to close administration of the estate.

(b) The report shall be filed with the court. Notice of hearing of the report shall be given as provided in Section 1220 to persons then interested in the estate, and shall include a statement in not less than 10-point boldface type or a reasonable equivalent thereof if printed, or in all capital letters if not printed, in substantially the following words: "YOU HAVE THE RIGHT TO PETITION FOR AN ACCOUNT UNDER SECTION 10950 OF THE CALIFORNIA PROBATE CODE."

(c) On the hearing of the report, the court may order either of the following:

(1) That the administration of the estate continue for the time and on the terms and conditions that appear reasonable, including an account under Section 10950, if the court determines that continuation of administration is in the best interests of the estate or of interested persons.

(2) That the personal representative shall petition for final distribution.

12202. (a) If the personal representative does not petition for final distribution or make a report within the time required by this chapter or prescribed by the court, the court may, on petition of any interested person or on its own motion, cite the personal representative to appear before the court and show the condition of the estate and the reasons why the estate cannot be distributed and closed.

(b) On the hearing of the citation, the court may either order the

administration of the estate to continue, as provided in Section 12201, or order the personal representative to petition for final distribution.

12203. (a) For purposes of this chapter, continuation of the administration of the estate in order to pay a family allowance is not in the best interests of the estate or interested persons unless the court determines both of the following:

(1) The family allowance is needed by the recipient to pay for necessaries of life, including education so long as pursued to advantage.

(2) The needs of the recipient for continued family allowance outweigh the needs of the decedent's beneficiaries whose interests would be adversely affected by continuing the administration of the estate for this purpose.

(b) Nothing in this section shall be construed to authorize continuation of a family allowance beyond the time prescribed in Section 6543.

(c) Nothing in this section limits the power of the court to order a preliminary distribution of the estate.

12204. Failure of the personal representative to comply with an order made under this chapter is grounds for removal from office.

12205. If the time taken for administration of the estate exceeds the time required by this chapter or prescribed by the court, the court may, on the hearing for final distribution or for an allowance on the commissions of the personal representative or on the fees of the attorney, reduce the commissions or fees by an amount the court deems appropriate, regardless of whether the commissions or fees otherwise allowable under the provisions of Sections 901 and 910 would be reasonable compensation for the services rendered, if the court determines that the time taken was within the control of the personal representative or attorney whose commissions or fees are being reduced and was not in the best interest of the estate or interested persons. In making a determination under this section, the court shall take into account any action taken under Section 12202 as a result of a previous delay.

12206. A limitation in a will of the time for administration of an estate is directory only and does not limit the power of the personal representative or the court to continue administration of the estate beyond the time limitation in the will if the continuation is necessary.

CHAPTER 2. DISCHARGE OF PERSONAL REPRESENTATIVE

12250. When the personal representative has complied with the terms of the order for final distribution and has filed the appropriate receipts or the court has excused the filing of a receipt, the court shall, on ex parte petition, make an order discharging the personal representative from all liability incurred thereafter.

12251. (a) At any time after appointment of a personal representative and whether or not letters have been issued, if it appears there is no property of any kind belonging to the estate and

subject to administration, the personal representative may petition for the termination of further proceedings and for discharge of the personal representative. The petition shall state the facts required by this subdivision.

(b) Notice of the hearing on the petition shall be given as provided in Section 1220 to all interested persons.

(c) If it appears to the satisfaction of the court on the hearing that the facts stated in the petition are true, the court shall make an order terminating the proceeding and discharging the personal representative.

12252. If subsequent administration of an estate is necessary after the personal representative has been discharged because other property is discovered or because it becomes necessary or proper for any cause:

(a) The court shall appoint as personal representative the person entitled to appointment in the same order as is directed in relation to original appointment, except that the person who served as personal representative at the time of the order of discharge has priority.

(b) Notice of hearing of the appointment shall be given as provided in Section 1220 to the person who served as personal representative at the time of the order of discharge and other interested persons. If property has been distributed to the State of California, a copy of any petition for subsequent appointment of a personal representative and the notice of hearing shall be given as provided in Section 1220 to the Controller.

SEC. 93.5. Section 12404 of the Probate Code is amended to read:

12404. (a) A petition may be filed in the court having jurisdiction under Section 12403 for the administration of the estate of a missing person.

(b) The petition may be filed by any person who may be appointed as a personal representative, other than a person described in subdivision (o) of Section 8461.

(c) In addition to the matters otherwise required in a petition for administration of the estate, the petition shall state all of the following:

(1) The last known place of residence and the last known address of the missing person.

(2) The time and circumstances when the missing person was last seen or heard from.

(3) That the missing person has not been seen or heard from for a continuous period of five years by the persons likely to have seen or heard from the missing person (naming them and their relationship to the missing person) and that the whereabouts of the missing person is unknown to those persons and to the petitioner.

(4) A description of the search or the inquiry made concerning the whereabouts of the missing person.

SEC. 94. Section 12408 of the Probate Code is amended to read:

12408. (a) If the missing person reappears:

(1) The missing person may recover property of the missing person's estate in the possession of the personal representative, less fees, costs, and expenses thus far incurred.

(2) The missing person may recover from distributees any property of the missing person's estate that is in their possession, or the value of distributions received by them, to the extent that recovery from distributees is equitable in view of all the circumstances, but an action under this paragraph is forever barred five years after the time the distribution was made.

(b) The remedies available to the missing person under subdivision (a) are exclusive, except for any remedy the missing person may have by reason of fraud or intentional wrongdoing.

(c) Except as provided in subdivisions (a) and (b), the order for final distribution, when it becomes final, is conclusive as to the rights of the missing person, the rights of the beneficiaries of the missing person, and the rights of all other persons interested in the estate.

(d) If a dispute arises as to the identity of a person claiming to be a reappearing missing person, the person making the claim or any other interested person may file a petition under Section 11700, notwithstanding the limitations of time prescribed in Section 11700, for the determination of the identity of the person claiming to be the reappearing missing person.

SEC. 94.5. Part 13 (commencing with Section 12500) is added to Division 7 of the Probate Code, to read:

PART 13. NONDOMICILIARY DECEDENTS

CHAPTER 1. DEFINITIONS

12500. Unless the provision or context otherwise requires, the definitions in this chapter govern the construction of this part.

12501. "Ancillary administration" means proceedings in this state for administration of the estate of a nondomiciliary decedent.

12502. "Foreign nation" means a jurisdiction other than a state of the United States.

12503. "Foreign nation personal representative" means a personal representative appointed in a jurisdiction other than a state of the United States.

12504. "Local personal representative" means a nondomiciliary decedent's personal representative appointed in this state.

12505. "Nondomiciliary decedent" means a person who dies domiciled in a sister state or foreign nation.

12506. "Sister state" means a state other than this state.

12507. "Sister state personal representative" means a personal representative appointed in a sister state.

CHAPTER 2. ANCILLARY ADMINISTRATION

Article 1. Opening Ancillary Administration

12510. Any interested person, or a sister state or foreign nation personal representative, may commence an ancillary administration proceeding by a petition to the court for either or both of the following:

(a) Probate of the nondomiciliary decedent's will.

(b) Appointment of a local personal representative.

12511. The proper county for an ancillary administration proceeding under this chapter is the county determined pursuant to Section 7052.

12512. Notice of an ancillary administration proceeding shall be given and, except as provided in Article 2 (commencing with Section 12520), the same proceedings had as in the case of a petition for probate of a will or appointment of a personal representative of a person who dies domiciled in this state.

12513. If the decedent dies while domiciled in a sister state, a personal representative appointed by a court of the decedent's domicile has priority over all other persons except where the decedent's will nominates a different person to be the personal representative in this state. The sister state personal representative may nominate another person as personal representative and the nominee has the same priority as the sister state personal representative.

Article 2. Probate of Nondomiciliary Decedent's Will Admitted to Probate in Sister State or Foreign Nation

12520. (a) If a nondomiciliary decedent's will has been admitted to probate in a sister state or foreign nation and satisfies the requirements of this article, probate of the will in an ancillary administration proceeding is governed by this article.

(b) If a nondomiciliary decedent's will has been admitted to probate in a sister state or foreign nation, but does not satisfy the requirements of this article, the will may be probated in an ancillary administration proceeding pursuant to Part 2 (commencing with Section 8000).

12521. (a) A petition for probate of a nondomiciliary decedent's will under this article shall include both of the following:

(1) The will or an authenticated copy of the will.

(2) An authenticated copy of the order admitting the will to probate in the sister state or foreign nation or other evidence of the establishment or proof of the will in accordance with the law of the sister state or foreign nation.

(b) As used in this section, "authenticated copy" means a copy that satisfies the requirements of Article 2 (commencing with Section 1530) of Chapter 2 of Division 11 of the Evidence Code.

12522. If a will of a nondomiciliary decedent was admitted to probate, or established or proved, in accordance with the laws of a sister state, the court shall admit the will to probate in this state, and may not permit a contest or revocation of probate, unless one or more of the following are shown:

(a) The determination in the sister state is not based on a finding that at the time of death the decedent was domiciled in the sister state.

(b) All interested parties were not given notice and an opportunity for contest in the proceedings in the sister state.

(c) The determination in the sister state is not final.

12523. (a) Except as provided in subdivision (b), if a will of a nondomiciliary decedent was admitted to probate, or established or proved, in accordance with the laws of a foreign nation, the court shall admit the will to probate in this state, and may not permit a contest or revocation of probate, if it appears from the order admitting the will to probate in the foreign nation, or otherwise appears, that all of the following conditions are satisfied:

(1) The determination in the foreign nation is based on a finding that at the time of death the decedent was domiciled in the foreign nation.

(2) All interested parties were given notice and an opportunity for contest in the proceedings in the foreign nation.

(3) The determination in the foreign nation is final.

(b) The court may refuse to admit the will, even though it is shown to satisfy the conditions provided in subdivision (a), where the order admitting the will was made under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

12524. A nondomiciliary decedent's will admitted to probate under this article has the same force and effect as the will of a person who dies while domiciled in this state that is admitted to probate in this state.

Article 3. Application of General Provisions

12530. Except to the extent otherwise provided in this chapter, ancillary administration of a decedent's estate is subject to all other provisions of this division, including, but not limited to, opening estate administration, inventory and appraisal, creditor claims, estate management, independent administration, compensation, accounts, payment of debts, distribution, and closing estate administration.

Article 4. Distribution of Property to Sister State Personal Representative

12540. (a) If a person dies while domiciled in a sister state, the court in an ancillary administration proceeding may make an order for preliminary or final distribution of all or part of the decedent's

personal property in this state to the sister state personal representative if distribution is in the best interest of the estate or interested persons.

(b) The court order shall be made in the manner and pursuant to the procedure provided in, and is subject to the provisions of, Chapter 1 (commencing with Section 11600) of Part 10.

12541. If necessary to make distribution pursuant to this article, real property in the nondomiciliary decedent's estate may be sold and the court may order the proceeds to be distributed to the sister state personal representative. The sale shall be made in the same manner as other sales of real property of a decedent.

12542. If the nondomiciliary decedent's estate in the sister state where the decedent was domiciled is insolvent, distribution may be made only to the sister state personal representative and not to the beneficiaries.

CHAPTER 3. COLLECTION OF PERSONAL PROPERTY OF SMALL ESTATE BY SISTER STATE PERSONAL REPRESENTATIVE WITHOUT ANCILLARY ADMINISTRATION

12570. If a nondomiciliary decedent's property in this state satisfies the requirements of Section 13100, a sister state personal representative may, without petitioning for ancillary administration, use the affidavit procedure provided by Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 to collect personal property of the decedent.

12571. The effect of payment, delivery, or transfer of personal property to the sister state personal representative pursuant to this chapter, and the effect of failure to do so, are governed by Chapter 3 (commencing with Section 13100) of Part 1 of Division 8.

12572. The sister state personal representative may bring an action against a holder of the decedent's property, and may be awarded attorney's fees, as provided in subdivision (b) of Section 13105.

12573. A sister state personal representative who takes property by affidavit under this chapter is not liable as a person to whom payment, delivery, or transfer of the decedent's property is made under Section 13109 or 13110 to the extent that the sister state personal representative restores the property to the nondomiciliary decedent's estate in the sister state in compliance with Section 13111.

12574. If the first notice was published pursuant to former Section 1043 before July 1, 1989, the procedure provided by former Sections 1043 and 1043a may be pursued to its conclusion notwithstanding the repeal of Sections 1043 and 1043a by the act that enacted this section. Nothing in this section precludes use of the procedure provided in this chapter on or after July 1, 1989, even though the procedure provided by Sections 1043 and 1043a was initiated before July 1, 1989.

CHAPTER 4. JURISDICTION OVER FOREIGN PERSONAL REPRESENTATIVE

12590. A sister state personal representative or foreign nation personal representative submits personally in a representative capacity to the jurisdiction of the courts of this state in any proceeding relating to the estate by any of the following actions:

(a) Filing a petition for ancillary administration.

(b) Receiving money or other personal property pursuant to Chapter 3 (commencing with Section 12570). Jurisdiction under this subdivision is limited to the amount of money and the value of personal property received.

(c) Doing any act in this state as a personal representative that would have given this state jurisdiction over the personal representative as an individual.

12591. A sister state personal representative or foreign nation personal representative is subject to the jurisdiction of the courts of this state in a representative capacity to the same extent that the nondomiciliary decedent was subject to jurisdiction at the time of death.

SEC. 95. Section 13006 of the Probate Code is amended to read:

13006. "Successor of the decedent" means:

(a) If the decedent died leaving a will, the sole beneficiary or all of the beneficiaries who succeeded to a particular item of property of the decedent under the decedent's will. For the purposes of this part, the trustee of a trust created during the decedent's lifetime is a beneficiary under the decedent's will if the trust succeeds to the particular item of property under the decedent's will.

(b) If the decedent died without a will, the sole person or all of the persons who succeeded to the particular item of property of the decedent under Sections 6401 and 6402 or, if the law of a sister state or foreign nation governs succession to the particular item of property, under the law of the sister state or foreign nation.

SEC. 95.5. Section 13051 of the Probate Code is amended to read:

13051. For the purposes of this part:

(a) A guardian or conservator of the estate of a person entitled to any of the decedent's property may act on behalf of the person without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

(b) A trustee of a trust created during the decedent's lifetime may act on behalf of the trust.

(c) If the decedent's will nominates a custodian to receive a devise to a beneficiary under the Uniform Gifts to Minors Act or the Uniform Transfer to Minors Act of any state and the nomination has not been revoked, the custodian may act on behalf of the beneficiary until such time as the custodianship terminates.

(d) A sister state personal representative may act on behalf of the beneficiaries as provided in Chapter 3 (commencing with Section 12570) of Part 13 of Division 7.

SEC. 96. Section 13052 of the Probate Code is amended to read:

13052. In making an appraisal for the purposes of this part, the probate referee shall use the date of the decedent's death as the date of valuation of the property.

SEC. 96.5. Section 13103 of the Probate Code is amended to read:

13103. If the estate of the decedent includes any real property in this state, the affidavit or declaration shall be accompanied by an inventory and appraisal of the real property. The form, content, and manner of making the inventory and appraisal of the real property shall be as set forth in Part 3 (commencing with Section 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant or declarant from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located.

SEC. 97. Section 13111 of the Probate Code is amended to read:

13111. (a) Subject to subdivisions (b), (c), (d), and (e), if proceedings for the administration of the decedent's estate are commenced in this state, each person to whom payment, delivery, or transfer of the decedent's property is made under this chapter is liable for:

(1) The restitution of the property to the estate if the person still has the property, together with the net income the person received from the property.

(2) The restitution to the estate of the fair market value of the property if the person no longer has the property, together with (A) the net income the person received from that property and (B) interest on the fair market value of the property from the date of disposition at the rate payable on a money judgment. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time of the disposition of the property, of the property paid, delivered, or transferred to the person under this chapter, excluding any liens and encumbrances on the property at that time.

(b) Subject to subdivision (c) and subject to any additional liability the person has under Sections 13109 to 13112, inclusive, if the person fraudulently secured the payment, delivery, or transfer of the decedent's property under this chapter, the person is liable under this section for restitution to the decedent's estate of three times the fair market value of the property. For the purposes of this subdivision, the "fair market value of the property" is the fair market value, valued as of the time the person liable under this subdivision presents the affidavit or declaration under this chapter, of the property paid, delivered, or transferred to the person under this chapter, excluding the amount of any liens and encumbrances on the property at that time.

(c) The property and amount required to be restored to the estate under this section shall be reduced by any property or amount paid by the person to satisfy a liability under Section 13109 or 13110.

(d) An action to enforce the liability under this section may be

brought only by the personal representative of the estate of the decedent. In an action to enforce the liability under this section, the court's judgment may enforce the liability only to the extent necessary to protect the interests of the heirs, devisees, and creditors of the decedent.

(e) An action to enforce the liability under this section is forever barred three years after presentation of the affidavit or declaration under this chapter to the holder of the decedent's property, or three years after the discovery of the fraud, whichever is later. The three-year period specified in this subdivision is not tolled for any reason.

(f) In the case of a nondomiciliary decedent, restitution under this section shall be made to the estate in an ancillary administration proceeding.

SEC. 97.5. Section 13112 of the Probate Code is amended to read:

13112. (a) A person to whom payment, delivery, or transfer of the decedent's property has been made under this chapter is not liable under Section 13109 or 13110 if proceedings for the administration of the decedent's estate are commenced in this state, and the person satisfies the requirements of Section 13111.

(b) Except as provided in subdivision (b) of Section 13110, the aggregate of the personal liability of a person under Sections 13109 and 13110 shall not exceed the fair market value, valued as of the time the affidavit or declaration is presented under this chapter, of the property paid, delivered, or transferred to the person under this chapter, less the amount of any liens and encumbrances on that property at that time, together with the net income the person received from the property and, if the property has been disposed of, interest on the fair market value of the property accruing from the date of disposition at the rate payable on a money judgment. For the purpose of this subdivision, "fair market value of the property" has the same meaning as defined in paragraph (2) of subdivision (a) of Section 13111.

SEC. 98. Section 13114 of the Probate Code is amended to read:

13114. (a) A public administrator who has taken possession or control of property of a decedent under Article 1 (commencing with Section 7600) of Chapter 4 of Part 1 of Division 7 may refuse to pay money or deliver property pursuant to this chapter if payment of the costs and fees described in Section 7604 has not first been made or adequately assured to the satisfaction of the public administrator.

(b) A coroner who has property found upon the body of a decedent, or who has taken charge of property of the decedent pursuant to Section 27491.3 of the Government Code, may refuse to pay or deliver the property pursuant to this chapter if payment of the reasonable costs of holding or safeguarding the property has not first been made or adequately assured to the satisfaction of the coroner.

SEC. 98.5. Section 13152 of the Probate Code is amended to read:

13152. (a) The petition shall be verified by each petitioner, shall contain a request that the court make an order under this chapter

determining that the particular item of property described in the petition is property passing to the petitioner and that no administration of the decedent's estate is necessary, and shall state all of the following:

(1) The facts necessary to determine that the petition is filed in the proper county.

(2) The gross value of the decedent's real and personal property in California, excluding the property described in Section 13050, as shown by the inventory and appraisal attached to the petition, does not exceed sixty thousand dollars ($60,000).

(3) A description of the particular item of property in this state which the petitioner alleges is property of the decedent passing to the petitioner.

(4) The facts upon which the petitioner bases the allegation that the described real property is property passing to the petitioner.

(5) A statement that no proceeding is being or has been conducted in this state for administration of the decedent's estate.

(6) Whether estate proceedings for the decedent have been commenced in any other jurisdiction and, if so, where those proceedings are pending or were conducted.

(7) The names, addresses, relationships, and ages of the heirs and devisees of the decedent, the names and addresses of all persons named as executors of the will of the decedent, and, if the petitioner is the trustee of a trust that is a devisee under the will of the decedent, the names and addresses of all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804, so far as known to any petitioner.

(b) There shall be attached to the petition an inventory and appraisal in the form set forth in Section 8802 of the decedent's real and personal property in this state, excluding the property described in Section 13050. The appraisal shall be made by a probate referee selected by the petitioner from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located. The appraisal shall be made as set forth in Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets which a personal representative could appraise under Section 8901.

(c) If the petitioner bases his or her claim to the described particular item of property upon the will of the decedent, a copy of the will shall be attached to the petition.

SEC. 99. Section 13154 of the Probate Code is amended to read:

13154. (a) If the court makes the determinations required under subdivision (b), the court shall issue an order determining (1) that real property, to be described in the order, of the decedent is property passing to the petitioners and the specific property interest of each petitioner in the described property and (2) that no administration of the decedent's estate is necessary.

(b) The court may make an order under this section only if the

court makes all of the following determinations:

(1) The gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, does not exceed sixty thousand dollars ($60,000).

(2) Not less than 40 days have elapsed since the death of the decedent.

(3) No proceeding is being or has been conducted in this state for administration of the decedent's estate.

(4) The real property described in the order is property of the decedent passing to the petitioner.

(c) If the petition has attached an inventory and appraisal that satisfies the requirements of subdivision (b) of Section 13152, the determination required by paragraph (1) of subdivision (b) of this section shall be made on the basis of the verified petition and the attached inventory and appraisal, unless evidence is offered by a person opposing the petition that the gross value of the decedent's real and personal property in this state, excluding the property described in Section 13050, exceeds sixty thousand dollars ($60,000).

SEC. 99.5. Section 13200 of the Probate Code is amended to read:

13200. (a) No sooner than six months from the death of a decedent, a person or persons claiming as successor of the decedent to a particular item of property that is real property may file in the superior court in the county in which the decedent was domiciled at the time of death, or if the decedent was not domiciled in this state at the time of death, then in any county in which real property of the decedent is located, an affidavit in the form prescribed by the Judicial Council pursuant to Section 13209 stating all of the following:

(1) The name of the decedent.

(2) The date and place of the decedent's death.

(3) A legal description of the real property and the interest of the decedent therein.

(4) "The gross value of all real property in the decedent's estate located in California, as shown by the inventory and appraisal attached to this affidavit, excluding the real property described in Section 13050 of the California Probate Code, does not exceed ten thousand dollars ($10,000)."

(5) "At least six months have elapsed since the death of the decedent as shown in a certified copy of decedent's death certificate attached to this affidavit."

(6) "No proceeding is now being or has been conducted in California for administration of the decedent's estate."

(7) "Funeral expenses, expenses of last illness, and all unsecured debts of the decedent have been paid."

(8) "The affiant is the successor of the decedent (as defined in Section 13006 of the Probate Code) and to the decedent's interest in the described property, and no other person has a superior right to the interest of the decedent in the described property."

(9) "The affiant declares under penalty of perjury under the law of the State of California that the foregoing is true and correct."

(b) For each person executing the affidavit, the affidavit shall contain a notary public's certificate of acknowledgment identifying the person.

(c) There shall be attached to the affidavit an inventory and appraisal of the decedent's real property in this state, excluding the real property described in Section 13050. The form, content, and manner of making the inventory and appraisal of the real property shall be as set forth in Part 3 (commencing with Section 8800) of Division 7. The appraisal shall be made by a probate referee selected by the affiant from those probate referees appointed by the Controller under Section 400 to appraise property in the county where the real property is located.

(d) If the person or persons executing the affidavit claim under the decedent's will, a copy of the will shall be attached to the affidavit.

(e) A certified copy of the decedent's death certificate shall be attached to the affidavit.

SEC. 100. Section 13203 of the Probate Code is amended to read:

13203. (a) A good faith purchaser or lessee of real property for value from, or a good faith lender to, a person designated as a successor of the decedent to a particular item of property in a certified copy of an affidavit issued under Section 13202 and recorded in the county in which the real property is located has the same rights and protections as the purchaser, lessee, or lender would have if each person designated as a successor in the recorded certified copy of the affidavit had been named as a distributee of the real property in an order for distribution that had become final.

(b) The issuance and recording of a certified copy of an affidavit under this chapter does not preclude later proceedings for administration of the decedent's estate.

SEC. 100.5. Section 13501 of the Probate Code is amended to read:

13501. Except as provided in Chapter 6 (commencing with Section 6600) of Division 6 and in Part 1 (commencing with Section 13000) of this division, the following property of the decedent is subject to administration under Division 7 (commencing with Section 7000):

(a) Property passing to someone other than the surviving spouse under the decedent's will or by intestate succession.

(b) Property disposed of in trust under the decedent's will.

(c) Property in which the decedent's will limits the surviving spouse to a qualified ownership. For the purpose of this subdivision, a devise to the surviving spouse that is conditioned on the spouse surviving the decedent by a specified period of time is not a "qualified ownership" interest if the specified period of time has expired.

SEC. 101. Section 13502 of the Probate Code is amended to read:

13502. (a) Upon the election of the surviving spouse or the personal representative, guardian of the estate, or conservator of the

estate of the surviving spouse, all or a portion of the following property may be administered under Division 7 (commencing with Section 7000):

(1) The one-half of the community property that belongs to the decedent under Section 100, the one-half of the quasi-community property that belongs to the decedent under Section 101, and the separate property of the decedent.

(2) The one-half of the community property that belongs to the surviving spouse under Section 100 and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101.

(b) The election shall be made by a writing specifically evidencing the election filed in the proceedings for the administration of the estate of the deceased spouse within four months after the issuance of letters, or within any further time that the court may allow upon a showing of good cause, and before entry of an order under Section 13656.

SEC. 101.5. Section 13503 of the Probate Code is amended to read:

13503. (a) The surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file an election and agreement to have all or part of the one-half of the community property that belongs to the surviving spouse under Section 100 and the one-half of the quasi-community property that belongs to the surviving spouse under Section 101 transferred by the surviving spouse or the surviving spouse's personal representative, guardian, or conservator to the trustee under the will of the deceased spouse or the trustee of an existing trust identified by the will of the deceased spouse, to be administered and distributed by the trustee.

(b) The election and agreement shall be filed in the proceedings for the administration of the estate of the deceased spouse and before the entry of the order for final distribution in the proceedings.

SEC. 102. Section 13550 of the Probate Code is amended to read:

13550. Except as provided in Sections 11446, 13552, 13553, and 13554, upon the death of a married person, the surviving spouse is personally liable for the debts of the deceased spouse chargeable against the property described in Section 13551 to the extent provided in Section 13551.

SEC. 102.5. Section 13553 of the Probate Code is amended to read:

13553. The surviving spouse is not liable under this chapter if all the property described in paragraphs (1) and (2) of subdivision (a) of Section 13502 is administered under Division 7 (commencing with Section 7000).

SEC. 103. Section 13650 of the Probate Code is amended to read:

13650. (a) A surviving spouse or the personal representative, guardian of the estate, or conservator of the estate of the surviving spouse may file a petition in the superior court of the county in which

the estate of the deceased spouse may be administered requesting an order that administration of all or part of the estate is not necessary for the reason that all or part of the estate is property passing to the surviving spouse. The petition may also request an order confirming the ownership of the surviving spouse of property belonging to the surviving spouse under Section 100 or 101.

(b) To the extent of the election, this section does not apply to property that the petitioner has elected, as provided in Section 13502, to have administered under Division 7 (commencing with Section 7000).

(c) A guardian or conservator may file a petition under this section without authorization or approval of the court in which the guardianship or conservatorship proceeding is pending.

SEC. 103.5. Section 13655 of the Probate Code is amended to read:

13655. (a) If a petition filed under this chapter is filed with a petition for probate of the deceased spouse's will or with a petition for administration of the estate of the deceased spouse, notice of the hearing on the petition shall be given in the manner prescribed by Section 8003 and shall be included in the notice required by that section.

(b) If proceedings for the administration of the estate of the deceased spouse are pending at the time a petition is filed under this chapter or, if the proceedings are not pending and if the petition filed under this chapter is not filed with a petition for probate of the deceased spouse's will or for administration of the estate of the deceased spouse, the clerk shall set the petition for hearing. At least 15 days before the hearing, notice of the hearing on the petition filed under this chapter shall be personally served upon the following persons by the petitioner or mailed, postage prepaid, by the petitioner to the following persons, addressed to the addresses given in their request for special notice or notice of appearance, the addresses of their offices or places of residence, or, if neither of these addresses is known to the petitioner, the county seat of the county in which the proceedings are pending:

(1) Any personal representative who is not the petitioner.

(2) All devisees and known heirs of the deceased spouse and, if the petitioner is the trustee of a trust that is a devisee under the will of the decedent, all persons interested in the trust, as determined in cases of future interests pursuant to paragraph (1), (2), or (3) of subdivision (a) of Section 15804.

(3) All persons or their attorneys who have requested special notice pursuant to Section 1250.

(4) All persons or their attorneys who have given notice of appearance.

(c) The notice specified in subdivision (b) shall also be mailed as provided in subdivision (b) to the Attorney General, addressed to the office of the Attorney General at Sacramento, California, if the petitioner bases the allegation that all or part of the estate of the

deceased spouse is property passing to the surviving spouse upon the will of the deceased spouse and the will involves or may involve either of the following:

(1) A testamentary trust of property for charitable purposes other than a charitable trust with a designated trustee, resident in this state.

(2) A devise for a charitable purpose without an identified devisee or beneficiary.

SEC. 104. Section 13656 of the Probate Code is amended to read:

13656. (a) If the court finds that all of the estate of the deceased spouse is property passing to the surviving spouse, the court shall issue an order describing the property, determining that the property is property passing to the surviving spouse, and determining that no administration is necessary. The court may issue any further orders which may be necessary to cause delivery of the property or its proceeds to the surviving spouse.

(b) If the court finds that all or part of the estate of the deceased spouse is not property passing to the surviving spouse, the court shall issue an order (1) describing any property which is not property passing to the surviving spouse, determining that that property does not pass to the surviving spouse and determining that that property is subject to administration under Division 7 (commencing with Section 7000) and (2) describing the property, if any, which is property passing to the surviving spouse, determining that that property passes to the surviving spouse, and determining that no administration of that property is necessary. If the court determines that property passes to the surviving spouse, the court may issue any further orders which may be necessary to cause delivery of that property or its proceeds to the surviving spouse.

(c) If the petition filed under this chapter includes a description of the interest of the surviving spouse in the community or quasi-community property, or both, which belongs to the surviving spouse pursuant to Section 100 or 101 and the court finds that the interest belongs to the surviving spouse, the court shall issue an order describing the property and confirming the ownership of the surviving spouse and may issue any further orders which may be necessary to cause ownership of the property to be confirmed in the surviving spouse.

SEC. 104.5. Section 13658 of the Probate Code is amended to read:

13658. If the court determines that all or a part of the property passing to the surviving spouse consists of an unincorporated business or an interest in an unincorporated business which the deceased spouse was operating or managing at the time of death, the court shall require the surviving spouse to file a list of all of the known creditors of the business and the amounts owing to each of them. The court may issue any order necessary to protect the interests of the creditors of the business, including, but not limited to, the filing of (1) an undertaking and (2) an inventory and

appraisal in the form set forth in Section 8802 and made as set forth in Part 3 (commencing with Section 8800) of Division 7.

SEC. 105. Section 13659 of the Probate Code is amended to read:

13659. Except as provided in Section 13658, no inventory and appraisal of the estate of the deceased spouse shall be required in a proceeding under this chapter. However, within three months after the filing of a petition under this chapter, or within such further time as the court or judge for reasonable cause may allow, the petitioner may file with the clerk of the court an inventory and appraisal in the form set forth in Section 8802. The appraisal shall be made as set forth in Part 3 (commencing with Section 8800) of Division 7. The petitioner may appraise the assets which a personal representative could appraise under Section 8901.

SEC. 105.3. Section 15804 of the Probate Code is amended to read:

15804. (a) Subject to subdivisions (b) and (c), it is sufficient compliance with a requirement in this division that notice be given to a beneficiary, or to a person interested in the trust, if notice is given as follows:

(1) Where an interest has been limited on any future contingency to persons who will compose a certain class upon the happening of a certain event without further limitation, notice shall be given to the persons in being who would constitute the class if the event had happened immediately before the commencement of the proceedings.

(2) Where an interest has been limited to a living person and the same interest, or a share therein, has been further limited upon the happening of a future event to the surviving spouse or to persons who are or may be the distributees, heirs, issue, or other kindred of the living person, notice shall be given to the living person.

(3) Where an interest has been limited upon the happening of any future event to a person, or a class of persons, or both, and the interest, or a share of the interest, has been further limited upon the happening of an additional future event to another person, or a class of persons, or both, notice shall be given to the person or persons in being who would take the interest upon the happening of the first of these events.

(b) If a conflict of interest involving the subject matter of the trust proceeding exists between a person to whom notice is required to be given and a person to whom notice is not otherwise required to be given under subdivision (a), notice shall also be given to persons not otherwise entitled to notice under subdivision (a) with respect to whom the conflict of interest exists.

(c) Nothing in this section affects any of the following:

(1) Requirements for notice to a person who has requested special notice, a person who has filed notice of appearance, or a particular person or entity required by statute to be given notice.

(2) Availability of a guardian ad litem pursuant to Section 1003.

SEC. 105.5. Section 16225 of the Probate Code is amended to

read:

16225. (a) The trustee has the power to deposit trust funds at reasonable interest in any of the following accounts:

(1) An insured account in a financial institution.

(2) To the extent that the account is collateralized, an account in a bank, an account in an insured savings and loan association, or an account in an insured credit union.

(b) A trustee may deposit trust funds pursuant to subdivision (a) in a financial institution operated by, or that is an affiliate of, the trustee. For the purpose of this subdivision, "affiliate" means a corporation that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another domestic or foreign corporation.

(c) This section does not limit the power of a trustee in a proper case to deposit trust funds in an account described in subdivision (a) that is subject to notice or other conditions respecting withdrawal prescribed by law or governmental regulation.

(d) The court may authorize the deposit of trust funds in an account described in subdivision (a) in an amount greater than the maximum insured or collateralized amount.

(e) Nothing in this section prevents the trustee from holding an amount of trust property reasonably necessary for the orderly administration of the trust in the form of cash or in a checking account without interest.

SEC. 106. Section 16304 of the Probate Code is amended to read:

16304. (a) An income beneficiary is entitled to income from the date specified in the trust instrument or, if none is specified, from the date an item of property becomes subject to the trust. In the case of an item of property becoming subject to a trust by reason of a person's death, it becomes subject to the trust as of the date of the death of the person even though there is an intervening period of administration of the person's estate, except that income on the property during the period of administration is governed by Chapter 8 (commencing with Section 12000) of Part 10 of Division 7, and becomes subject to the trust as it accrues.

(b) Upon property becoming subject to a trust by reason of a person's death:

(1) Receipts due but not paid at the date of death of the person are principal.

(2) Receipts in the form of periodic payments (other than corporate distributions to stockholders), including rent, interest, or annuities, not due at the date of the death of the person shall be treated as accruing from day to day. That portion of the receipt accruing before the date of death is principal and the balance is income.

(c) In all other cases, any receipt from income-producing property is income even though the receipt was earned or accrued in whole or in part before the date when the property became subject to the trust.

(d) If an income beneficiary's right to income terminates by death or in any other manner, income paid to the income beneficiary or received by the trustee before the termination belongs to the income beneficiary or his or her personal representative. All income received by the trustee after such termination shall be paid to the person next entitled to income by the terms of the trust. This subdivision is subject to subdivision (d) of Section 21524 and does not apply to income received by a trustee under subdivision (b) of Section 16305.

(e) Corporate distributions to stockholders shall be treated as due on the day fixed by the corporation for determination of stockholders of record entitled to distribution or, if no date is fixed, on the date of declaration of the distribution by the corporation.

(f) A distribution to a beneficiary of current income is payable not less frequently than annually.

SEC. 106.5. Section 16305 of the Probate Code is amended to read:

16305. (a) Unless the will otherwise provides, income from the property of a decedent's estate after the death of the testator and before distribution, including income from property used to discharge liabilities, shall be distributed in the manner set forth in Chapter 8 (commencing with Section 12000) of Part 10 of Division 7. Income received by a trustee under this subdivision shall be treated as income of the trust.

(b) If an income beneficiary's right to income, including interest payable under Section 12003, terminates by death or in any other manner during the period of probate administration, income attributable to the period of probate administration, when subsequently received by the trustee, shall be equitably prorated between the beneficiary (or his or her personal representative) and the person next entitled to income by the terms of the trust instrument.

SEC. 107. Section 16314 is added to the Probate Code, to read:

16314. (a) A specific gift, a general pecuniary gift, an annuity, or a gift for maintenance distributable under a trust carries with it income and bears interest from the date of the settlor's death or other event upon which the distributee's right to receive the gift occurs, in the same manner as a specific devise, a general pecuniary devise, an annuity, or a devise for maintenance under a will set forth in Chapter 8 (commencing with Section 12000) of Part 10 of Division 7.

(b) For the purpose of this section, a reference in Section 12001 to "one year after the date of the decedent's death" means the date interest commences to run.

SEC. 107.3. Section 16315 is added to the Probate Code, to read:

16315. The changes made in Sections 16304 and 16305, and the addition of Section 16314, by the act that enacted this section apply to a trust created before July 1, 1989, but the changes and addition apply to the trust as if created on that date and do not affect any

aspect of the trust administration that occurred, or rights of beneficiaries that existed, before that date.

SEC. 107.5. Section 17208 of the Probate Code is repealed.

SEC. 107.7. The heading of Chapter 1 (commencing with Section 21100) of Part 1 of Division 11 of the Probate Code is repealed.

SEC. 107.8. Section 21100 of the Probate Code is repealed.

SEC. 107.9. The heading of Chapter 2 (commencing with Section 21120) of Part 1 of Division 11 of the Probate Code is repealed.

SEC. 108. Part 4 (commencing with Section 21400) is added to Division 11 of the Probate Code, to read:

PART 4. ABATEMENT

21400. Notwithstanding any other provision of this part, if the instrument provides for abatement, or if the transferor's plan or if the purpose of the transfer would be defeated by abatement as provided in this part, the shares of beneficiaries abate as is necessary to effectuate the instrument, plan, or purpose.

21401. Except as provided in Sections 6562 (omitted spouse) and 6573 (omitted children) and in Division 10 (commencing with Section 20100) (proration of taxes), shares of beneficiaries abate as provided in this part for all purposes, including payment of the debts, expenses, and charges specified in Section 11420, satisfaction of gifts, and payment of expenses on specifically devised property pursuant to Section 12002, and without any priority as between real and personal property.

21402. (a) Shares of beneficiaries abate in the following order:

(1) Property not disposed of by the instrument.

(2) Residuary gifts.

(3) General gifts to persons other than the transferor's relatives.

(4) General gifts to the transferor's relatives.

(5) Specific gifts to persons other than the transferor's relatives.

(6) Specific gifts to the transferor's relatives.

(b) For purposes of this section, a "relative" of the transferor is a person to whom property would pass from the transferor under Section 6401 or 6402 (intestate succession) if the transferor died intestate and there were no other person having priority.

21403. (a) Subject to subdivision (b), shares of beneficiaries abate pro rata within each class specified in Section 21402.

(b) Gifts of annuities and demonstrative gifts are treated as specific gifts to the extent they are satisfied out of the fund or property specified in the gift and as general gifts to the extent they are satisfied out of property other than the fund or property specified in the gift.

21404. If an instrument requires property that is the subject of a specific gift to be exonerated from a mortgage, deed of trust, or other lien, a specific gift of other property does not abate for the purpose of exonerating the encumbered property.

21405. (a) In any case in which there is abatement when a

distribution is made during estate administration, the court shall fix the amount each distributee must contribute for abatement. The personal representative shall reduce the distributee's share by that amount.

(b) If a specific gift must be abated, the beneficiary of the specific gift may satisfy the contribution for abatement out of the beneficiary's property other than the property that is the subject of the specific gift.

21406. (a) This part applies to a gift made on or after July 1, 1989. In the case of a gift made before July 1, 1989, the law that would have applied had this part not been enacted shall apply.

(b) For purposes of this section a gift by will is made on the date of the decedent's death.

SEC. 108.5. Section 480 of the Revenue and Taxation Code is amended to read:

480. (a) Whenever any change in ownership of real property or of a mobilehome subject to local property taxation, and which is assessed by the county assessor, occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county where the decedent owned real property at the time of death. The statement shall be filed at the time the inventory and appraisal is filed with the court clerk.

(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any transferee acquiring an interest in real property or mobilehome subject to local property taxation, and which is assessed by the county assessor, to file a change in ownership

statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if such failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

(d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case such notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.

(e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(f) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(g) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(h) In the case of a corporation, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation. In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(i) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation of any change

in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance.

Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

SEC. 109. The heading of Chapter 1 (commencing with Section 8000) of Division 8 of the Welfare and Institutions Code is amended to read:

CHAPTER 1. SERVICES FOR ELDERS PILOT PROGRAM

SEC. 110. Section 8000 of the Welfare and Institutions Code is repealed.

SEC. 110.5. Section 8001 of the Welfare and Institutions Code is repealed.

SEC. 111. Section 8002 of the Welfare and Institutions Code is repealed.

SEC. 111.5. Section 8003 of the Welfare and Institutions Code is repealed.

SEC. 112. Section 8004 of the Welfare and Institutions Code is repealed.

SEC. 112.5. Section 8005 of the Welfare and Institutions Code is repealed.

SEC. 113. Section 8006 of the Welfare and Institutions Code is repealed.

SEC. 113.5. Section 8006.5 of the Welfare and Institutions Code is repealed.

SEC. 114. Section 8007 of the Welfare and Institutions Code is repealed.

SEC. 114.5. Section 8008 of the Welfare and Institutions Code is repealed.

SEC. 115. Section 8009 of the Welfare and Institutions Code is repealed.

SEC. 115.5. Section 8010 of the Welfare and Institutions Code is repealed.

SEC. 116. Section 8011 of the Welfare and Institutions Code is repealed.

SEC. 116.5. Section 8012 of the Welfare and Institutions Code is repealed.

SEC. 117. Section 8013 of the Welfare and Institutions Code is repealed.

SEC. 117.5. Section 8015 of the Welfare and Institutions Code is repealed.

SEC. 118. Section 23.5 of this bill incorporates amendments to Section 1035.05 of the Military and Veterans Code proposed by this bill and SB 2766. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1989, (2) each bill amends Section 1035.05 of the Military and Veterans Code, and (3) this bill is enacted after SB 2766, in which case Section 1035.05 of

the Military and Veterans Code, as amended by SB 2766, shall remain operative only until the operative date of this bill, at which time Section 23.5 of this bill shall become operative, and Section 23 of this bill shall not become operative.

SEC. 118.5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 119. This act shall become operative on July 1, 1989.

CHAPTER 1200

An act to amend Sections 68609 and 68612 of, and to add Sections 68609.5, 68612.5, 68618, 68618.5, and 68619 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 68609 of the Government Code is amended to read:

68609. (a) Beginning on January 1, 1988 the presiding judge of each superior court with an exemplary delay reduction program shall assign a pro rata share of new cases, and an appropriate number of existing cases, to the program, and these cases shall thereafter be handled by the judges of the program for all purposes.

(b) Juvenile, probate, and domestic relations cases need not be assigned to an exemplary delay reduction program, and cases which have been assigned to a judge or judges for all purposes based on subject matter need not be assigned to the program.

(c) No case shall be removed from an exemplary delay reduction program because of a challenge filed under Section 170.6 of the Code of Civil Procedure.

(d) In order to enforce the requirements of an exemplary delay

reduction program and orders issued in cases assigned to it, the judges of the program shall have all the powers to impose sanctions authorized by law, including the power to dismiss actions or strike pleadings, if it appears that less severe sanctions would not be effective after taking into account the effect of previous sanctions or previous lack of compliance in the case. Judges are encouraged to impose sanctions to achieve the purposes of this article.

SEC. 2. Section 68609.5 is added to the Government Code, to read:

68609.5. Each court and the Judicial Council, under subdivision (b) of Section 68619, shall adopt rules on or before January 1, 1989, to allow for the arbitration of cases designated by the court as "Uninsured Motorist" in which an action is filed against a defendant who is an uninsured motorist and the plaintiff's claim is subject to an arbitration provision.

SEC. 3. Section 68612 of the Government Code is amended to read:

68612. The judges selected in each county as judges of an exemplary delay reduction program shall, in consultation with the bar of the county to the maximum extent feasible, develop, and publish the procedures, standards, and policies which will be used in the program, including time standards for the conclusion of all critical steps in the litigation process, including discovery, and shall meet on a regular basis with the bar of the county in order to explain and publicize the program and the procedures, standards, and policies which shall govern cases assigned to the program. Those procedures, standards, and policies may be inconsistent with the California Rules of Court, may impose procedural requirements in addition to those authorized by statute, and may shorten any time specified by statute for performing an act. Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections. The procedures, standards, and policies to be used in the program shall be filed, distributed, and maintained pursuant to Section 68071 and the California Rules of Court, and shall also be published for general distribution. In its discretion, the Judicial Council may assist in the development of, or may develop and adopt, any or all of such procedures, standards, or policies on a statewide basis.

SEC. 3.5. Section 68612.5 is added to the Government Code, to read:

68612.5. The local rules adopted pursuant to this article and the Judicial Council rules adopted pursuant to subdivision (b) of Section 68619 may limit the time in which a person may file a cross-complaint, other than one filed before or at the same time as the answer to the complaint or cross-complaint, but the court shall retain power to authorize the filing of a cross-complaint in the interest of justice.

SEC. 4. Section 68618 is added to the Government Code, to read:

68618. In each county which has opted under the Trial Court Funding Act of 1985 (Chapter 13 (commencing with Section 77000)), the superior court, at the option of the presiding judge, may elect to establish an exemplary delay reduction program pursuant to this article, in which event the March 1, 1987, date for selection of program judges and the minimum designation of four judges to the program specified under Section 68606, and the January 1, 1988, date for commencement of the program specified under Section 68608, shall not apply. All other provisions of this article shall govern an exemplary delay reduction program established pursuant to this section.

The presiding judge of a superior court electing to establish an exemplary delay reduction program shall notify the Judicial Council of that election, along with the identity of the judges who will participate in the program, and the date the program is scheduled to begin.

SEC. 5. Section 68618.5 is added to the Government Code, to read:

68618.5. Notwithstanding any other provision of law, the Superior Courts of Humboldt, Napa, Yolo, Fresno, San Joaquin, and Santa Barbara Counties may establish exemplary delay reduction programs and adopt local delay reduction rules effective after December 31, 1987, pursuant to this article. These rules are not subject to subdivision (b) of Section 68619.

SEC. 6. Section 68619 is added to the Government Code, to read:

68619. (a) The Judicial Council shall review all local delay reduction rules adopted by courts designated pursuant to Section 68605 and any revisions or new rules adopted by them and make recommendations to the courts of revisions so that these rules are consistent, to the extent desirable, with other court rules.

(b) The Judicial Council shall adopt uniform delay reduction rules which shall apply to any court that adopts a delay reduction program pursuant to Section 68618. The uniform rules may shorten any time specified by statute for performing an act. Time for service of notice or other paper under Sections 1005 and 1013 of the Code of Civil Procedure and time to plead after service of summons under Section 412.20 of the Code of Civil Procedure shall not be shortened except as provided in those sections.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 8. The provisions of Section 3 of this act do not constitute

a change in, but are declaratory of, existing law.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement needed clarification with regard to procedural requirements and time standards governing counties subject to the Trial Court Delay Reduction Act of 1986, and to authorize voluntary adoption of that program as needed in counties not presently subject to the act, it is necessary that this act take effect immediately.

CHAPTER 1201

An act to amend Sections 19610.5 and 19612 of, and to add Section 19612.7 to, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 22, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 19610.5 of the Business and Professions Code is amended to read:

19610.5. In addition to the amounts required to be paid as license fees under any other provision of this chapter, every association, except an association conducting a racing meeting pursuant to Section 19612.6 or 19614 or an association conducting a harness meeting on a track of one mile or longer, shall pay 1 percent of its exotic parimutuel pools, excluding wagering at a satellite wagering facility, to the state as an additional license fee.

SEC. 2. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility:

Daily Handle	License Fee Rate
$1,000,000 or less	1.5 percent of handle.
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001.

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facil-

ity. However, any harness association or its successor in interest which conducts a harness meeting on a track of one mile or longer shall retain that 0.75 percent as an additional commission. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of the daily conventional parimutuel handle and 3.79 percent of the daily exotic parimutuel handle, excluding wagering at a satellite wagering facility.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19491, 19491.5, and 19610 after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, except for meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses. For meetings conducted pursuant to Section 19549.2, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 50 percent as commissions and 50 percent as purses.

(c) Except as otherwise provided, every association which conducts a harness horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle, excluding wagering at a satellite wagering facility:

Daily Handle	License Fee Rate
$550,000 or less	2.5 percent of handle.
$550,001 to $750,000	$13,750 plus 5.5 percent of the handle in excess of $550,001.
$750,001 and more	$24,750 plus 4.7 percent of the handle in excess of $750,001.

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facility. However, any harness association or its successor in interest which conducts a harness meeting on a track of one mile or longer shall retain that 0.75 percent as an additional commission. Except as provided in Section 19610.5, no association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle, excluding wagering at a satellite wagering facility, and 4.55 percent of the daily exotic parimutuel handle, excluding wagering at a satellite wagering facility.

(d) Every harness association or any transferee or successor or subsequent transferee or successor of the business or assets of the association which: (1) conducts its racing meeting at the facilities of a county fair or a district agricultural association or (2) conducted its racing meeting in a single continuous period prior to January 1, 1979, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel

handle, excluding wagering at a satellite wagering facility, in accordance with the following schedule:

Daily Handle	License Fee Rate
$1,000,000 or less	1.5 percent of handle.
$1,000,001 and more	$15,000 plus 10.7 percent of the handle in excess of $1,000,001.

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facility. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle, excluding wagering at a satellite wagering facility.

(e) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that the association's average daily handle in the 1981 year, during the period from the commencement of the meeting to December 25, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(f) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone, the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting. Every association conducting a quarter horse meeting in the northern zone may deduct an additional amount up to 1 percent of its conventional and exotic parimutuel pools to be distributed as commissions. The association may also deduct an additional 1 percent from the exotic parimutuel pools to be distributed as commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

SEC. 3. Section 19612.7 is added to the Business and Professions Code, to read:

19612.7. (a) Notwithstanding Section 19612.6 or any other provision of law, any association conducting a harness racing meeting at the California Exposition and State Fair with an average daily handle of six hundred fifty thousand dollars ($650,000) or less shall pay a daily license fee of 0.5 percent of its conventional and exotic parimutuel handle.

(b) The amount remaining after payment of the state license fee

pursuant to subdivision (a) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating in the meeting.

(c) In addition to any other amount which may be retained from conventional and exotic parimutuel pools, an association subject to subdivision (a) may retain an additional 1.5 percent of the total amount handled in conventional and exotic parimutuel pools for distribution as additional commissions.

(d) Notwithstanding subdivision (c) of Section 19596.5, the state license fee for wagering at satellite wagering facilities on a harness racing meeting at the California Exposition and State Fair with an average daily handle of six hundred fifty thousand dollars ($650,000) or less shall be 0.5 percent of the total conventional and exotic parimutuel handle at satellite wagering facilities on that meeting. The amount remaining from the deduction at satellite wagering facilities for that meeting, after payment of the state license fee pursuant to this subdivision and after distribution of other amounts as provided in subdivisions (c) and (e) of Section 19596.5, shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating in the meeting.

CHAPTER 1202

An act to amend Section 5008 of, to add Part 1.5 (commencing with Section 5585) to Division 5 of, and to repeal Section 5585.56 of, the Welfare and Institutions Code, relating to mentally disordered minors.

[Approved by Governor September 22, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section

5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible,

the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

SEC. 2. Part 1.5 (commencing with Section 5585) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 1.5. CHILDREN'S CIVIL COMMITMENT AND MENTAL HEALTH TREATMENT ACT OF 1988

CHAPTER 1. GENERAL PROVISIONS

5585. This part shall be known as the Children's Civil Commitment and Mental Health Treatment Act of 1988.

5585.10. This part shall be construed to promote the legislative intent and purposes of this part as follows:

(a) To provide prompt evaluation and treatment of mentally disordered minors, with particular priority given to seriously emotionally disturbed children and adolescents.

(b) To safeguard the rights to due process for minors and their families through judicial review.

(c) To provide individualized treatment, supervision, and placement services for gravely disabled minors.

(d) To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education.

5585.20. This part shall apply only to the initial 72 hours of mental health evaluation and treatment provided to a minor. Notwithstanding the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), unless the context otherwise requires, the definitions and procedures contained in this part shall, for the initial 72 hours of evaluation and treatment, govern the construction of state law governing the civil commitment of minors for involuntary treatment. To the extent that this part conflicts with any other provisions of law, it is the intent of the Legislature that this part shall apply. Evaluation and treatment of a minor beyond the initial 72 hours shall be pursuant to the Lanterman-Petris-Short Act (Part 1(commencing with Section 5000)).

5585.21. The Director of Mental Health may promulgate regulations as necessary to implement and clarify the provisions of this part as they relate to minors.

5585.22. The Director of Mental Health, in consultation with the California Conference of Local Mental Health Directors, may develop the appropriate educational materials and a training curriculum, and may provide training as necessary to assure those persons providing services pursuant to this part fully understand its purpose.

5585.25. "Gravely disabled minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Mental retardation, epilepsy, or other developmental disabilities, alcoholism,

other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

CHAPTER 2. CIVIL COMMITMENT OF MINORS

5585.50. When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for seventy-two hour treatment and evaluation of minors. The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained.

The facility shall require an application in writing stating the circumstances under which the minor's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the minor is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, the person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

5585.52. Any minor detained under the provisions of Section 5585.50 shall receive a clinical evaluation consisting of multidisciplinary professional analyses of the minor's medical, psychological, developmental, educational, social, financial, and legal conditions as may appear to constitute a problem. This evaluation shall include a psychosocial evaluation of the family or living environment, or both. Persons providing evaluation services shall be properly qualified professionals with training or supervised experience, or both, in the diagnosis and treatment of minors. Every effort shall be made to involve the minor's parent or legal guardian in the clinical evaluation.

5585.53. If, in the opinion of the professional person conducting the evaluation as specified in Section 5585.52, the minor will require additional mental health treatment, a treatment plan shall be written and shall identify the least restrictive placement alternative in which the minor can receive the necessary treatment. The family, legal guardian, or caretaker and the minor shall be consulted and informed as to the basic recommendations for further treatment and placement requirements. Every effort shall be made to obtain the

consent of the minor's parent or legal guardian prior to treatment and placement of the minor. Inability to obtain the consent of the minor's parent or legal guardian shall not preclude the involuntary treatment of a minor who is determined to be gravely disabled or a danger to himself or herself or others. Involuntary treatment shall only be allowed in accordance with the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

5585.55. The minor committed for involuntary treatment under this part shall be placed in a health facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour evaluation and treatment. Except as provided for in Section 5751.7, each county shall assure that minors under the age of 16 years are not held with adults receiving psychiatric treatment under the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

5585.56. Any minor detained under Section 5585.50 shall be released to his or her family, legal guardian, or caretaker if at any time he or she is found not to be a danger to self, danger to others, or gravely disabled as a result of a mental disorder and voluntary treatment is not authorized. If the parent, legal guardian, or caretaker is unwilling or unable to accept physical custody of the minor, county procedures regarding the abandonment of a minor shall be initiated to assure the safe and orderly transfer of physical custody of these minors, consistent with Section 232 of the Civil Code and with the provisions of Chapter 2 (commencing with Section 200) of Part 1 of Division 2, relating to the detention, custody, and transfer of minors.

This section shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

5585.57. A mentally ill minor, upon being considered for release from involuntary treatment, shall have an aftercare plan developed. The plan shall include educational or training needs, provided these are necessary for the minor's well-being.

5585.58. This part shall be funded under the Short-Doyle Act as part of the county Short-Doyle plan.

5585.59. For the purposes of this part, legally emancipated minors requiring involuntary treatment shall be considered adults and this part shall not apply.

SEC. 3. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars ($500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1203

An act to amend Section 7910 of the Government Code, relating to expenditure limitations.

[Approved by Governor September 22, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 7910 of the Government Code is amended to read:

7910. Each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit and make other necessary determinations for the following fiscal year pursuant to Article XIII B at a regularly scheduled meeting or noticed special meeting. Fifteen days prior to the meeting documentation used in the determination of the appropriations limit and other necessary determinations shall be available to the public. The determinations made pursuant to this section are legislative acts.

Any judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section for the 1980–81 fiscal year shall be commenced within 60 days of the effective date of the resolution or the effective date of the act which added this section to the Government Code, whichever date is later.

For the 1981–82 fiscal year and each fiscal year thereafter, any judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section shall be commenced within 45 days of the effective date of the resolution.

All courts wherein such actions are or may be hereafter pending, including any court reviewing such action on appeal from the decision of a lower court, shall give such actions preference over all other civil actions therein, in the manner of setting the same for hearing or trial and in hearing the same to the end that all such actions shall be quickly heard and determined.

SEC. 2. The amendments made to Section 7910 of the Government Code by Section 1 of this act do not constitute a change in, but are declaratory of, the existing law.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

CHAPTER 1204

An act to amend Section 425.13 of, and to add Section 425.15 to, the Code of Civil Procedure, and to repeal and amend Sections 5239, 7231.5, and 9247 of, and to add and repeal Sections 5047.5 and 24001.5 of, the Corporations Code, relating to liability.

[Approved by Governor September 22, 1988. Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 425.13 of the Code of Civil Procedure is amended to read:

425.13. (a) In any action for damages arising out of the professional negligence of a health care provider, no claim for punitive damages shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed. The court may allow the filing of an amended pleading claiming punitive damages on a motion by the party seeking the amended pleading and on the basis of the supporting and opposing affidavits presented that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294 of the Civil Code. The court shall not grant a motion allowing the filing of an amended pleading that includes a claim for punitive damages if the motion for such an order is not filed within two years after the complaint or initial pleading is filed or not less than nine months before the date the matter is first set for trial, whichever is earlier.

(b) For the purposes of this section, "health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

SEC. 2. Section 425.15 is added to the Code of Civil Procedure, to read:

425.15. (a) No cause of action against a person serving without compensation as a director or officer of a nonprofit corporation described in this section, on account of any negligent act or omission by that person within the scope of that person's duties as a director acting in the capacity of a board member, or as an officer acting in the capacity of, and within the scope of the duties of, an officer, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes that claim to be filed after the court determines that the party seeking to file the pleading

has established evidence that substantiates the claim. The court may allow the filing of a pleading that includes that claim following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Nothing in this section shall affect the plaintiff's right to discover evidence on the issue of damages.

(c) Nothing in this section shall be construed to affect any action against a nonprofit corporation for any negligent action or omission of a volunteer director or officer occurring within the scope of the person's duties.

(d) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(e) (1) This section applies only to officers and directors of nonprofit corporations that are incorporated pursuant to Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code that are organized to provide charitable, educational, scientific, social, or other forms of public service and that are exempt from federal income taxation under Section 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5), 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

(2) This section does not apply to any corporation that restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(f) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 3. Section 5047.5 is added to the Corporations Code, to read:

5047.5. (a) The Legislature finds and declares that the services of directors and officers of nonprofit corporations who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these corporations to protect the personal assets of their volunteer decision makers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit corporation incorporated under Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of this division on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the corporation; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit corporations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit corporation maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the corporation's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the corporation's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one million dollars ($1,000,000).

This section applies only if a policy is in force both at the time of injury and at the time that the claim is made, so that a policy is applicable to the claim.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit corporation for any negligent act or omission of a director, officer, employee, agent, or servant occurring within the scope of his or her employment.

(h) This section does not apply to any corporation that restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(i) This section does not apply to any volunteer director or officer who receives compensation from the corporation in any other capacity, including, but not limited to, as an employee.

(j) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 4. Section 5239 of the Corporations Code, as added by Chapter 1201 of the Statutes of 1987, is repealed.

SEC. 5. Section 5239 of the Corporations Code, as added by Chapter 1206 of the Statutes of 1987, is amended to read:

5239. (a) There shall be no personal liability to a third party for monetary damages on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's and officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 5233 or 5237.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 6. Section 7231.5 of the Corporations Code, as added by Chapter 1201 of the Statutes of 1987, is repealed.

SEC. 7. Section 7231.5 of the Corporations Code, as added by Chapter 1206 of the Statutes of 1987, is amended to read:

7231.5. (a) Except as provided in Section 7233 or 7236, there is no monetary liability on the part of, and no cause of action for damages shall arise against, any volunteer director or volunteer executive committee officer of a nonprofit corporation subject to this part based upon any alleged failure to discharge the person's duties as a director or officer if the duties are performed in a manner that meets all of the following criteria:

(1) The duties are performed in good faith.

(2) The duties are performed in a manner such director or officer believes to be in the best interests of the corporation.

(3) The duties are performed with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) This section shall apply only to trade, professional, and labor organizations incorporated pursuant to this part which operate exclusively for fraternal, educational, and other nonprofit purposes, and under the provisions of Section 501(c) of the United States Internal Revenue Code.

SEC. 8. Section 9247 of the Corporations Code, as added by Chapter 1201 of the Statutes of 1987, is repealed.

SEC. 9. Section 9247 of the Corporations Code, as added by Chapter 1206 of the Statutes of 1987, is amended to read:

9247. (a) There shall be no personal liability for monetary damages to a third party on the part of a volunteer director or volunteer executive committee officer of a nonprofit corporation subject to this part, caused by the director's or officer's negligent act or omission in the performance of that person's duties as a director or officer, if all of the following conditions are met:

(1) The act or omission was within the scope of the director's or executive committee officer's duties.

(2) The act or omission was performed in good faith.

(3) The act or omission was not reckless, wanton, intentional, or grossly negligent.

(4) Damages caused by the act or omission are covered pursuant to a liability insurance policy issued to the corporation, either in the form of a general liability policy or a director's or officer's liability policy, or personally to the director or executive committee officer. In the event that the damages are not covered by a liability insurance policy, the volunteer director or volunteer executive committee officer shall not be personally liable for the damages if the board of directors of the corporation and the person had made all reasonable efforts in good faith to obtain available liability insurance.

(b) "Volunteer" means the rendering of services without compensation. "Compensation" means remuneration whether by way of salary, fee, or other consideration for services rendered. However, the payment of per diem, mileage, or other reimbursement expenses to a director or executive committee officer does not affect that person's status as a volunteer within the meaning of this section.

(c) "Executive committee officer" means the president, vice president, secretary, or treasurer of a corporation who assists in establishing the policy of the corporation.

(d) Nothing in this section shall limit the liability of the corporation for any damages caused by acts or omissions of the volunteer director or volunteer executive committee officer.

(e) This section does not eliminate or limit the liability of a director or officer for any of the following:

(1) As provided in Section 9243 or 9245.

(2) In any action or proceeding brought by the Attorney General.

(f) Nothing in this section creates a duty of care or basis of liability for damage or injury caused by the acts or omissions of a director or officer.

(g) This section is only applicable to causes of action based upon acts or omissions occurring on or after January 1, 1988.

SEC. 10. Section 24001.5 is added to the Corporations Code, to read:

24001.5. (a) The Legislature finds and declares that the services of directors or officers of nonprofit medical associations, as defined in Section 21200, who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these associations to protect the personal assets of their volunteer decisionmakers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without

compensation as a director or officer of a nonprofit medical association, as defined in Section 21200, on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the association; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit organizations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit association maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the association's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the association's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one million dollars ($1,000,000).

This section applies only if a policy is in force both at the time of injury and at the time that the claim is made, so that a policy is applicable to the claim.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit association for any negligent act or omission of a director, officer employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any association that restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(i) This section does not apply to any volunteer director or officer who receives compensation from the association in any other capacity, including, but not limited to, as an employee.

(j) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 11. Sections 2, 3, and 10 of this act apply only to causes of action based upon acts or omissions occurring on or after January 1, 1989, and before January 1, 1992.

CHAPTER 1205

An act to amend Sections 425.13 and 425.15 of the Code of Civil Procedure, and to amend Sections 5047.5 and 24001.5 of the Corporations Code, relating to liability.

[Approved by Governor September 22, 1988 Filed with Secretary of State September 22, 1988.]

The people of the State of California do enact as follows:

SECTION 1. Section 425.13 of the Code of Civil Procedure is amended to read:

425.13. (a) In any action for damages arising out of the professional negligence of a health care provider, no claim for punitive damages shall be included in a complaint or other pleading unless the court enters an order allowing an amended pleading that includes a claim for punitive damages to be filed. The court may allow the filing of an amended pleading claiming punitive damages on a motion by the party seeking the amended pleading and on the basis of the supporting and opposing affidavits presented that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294 of the Civil Code. The court shall not grant a motion allowing the filing of an amended pleading that includes a claim for punitive damages if the motion for such an order is not filed within two years after the complaint or initial pleading is filed or not less than nine months before the date the matter is first set for trial, whichever is earlier.

(b) For the purposes of this section, "health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider.

SEC. 2. Section 425.15 of the Code of Civil Procedure, as added

by Senate Bill 1755 of the 1987–88 Regular Session, is amended to read:

425.15. (a) No cause of action against a person serving without compensation as a director or officer of a nonprofit corporation described in this section, on account of any negligent act or omission by that person within the scope of that person's duties as a director acting in the capacity of a board member, or as an officer acting in the capacity of, and within the scope of the duties of, an officer, shall be included in a complaint or other pleading unless the court enters an order allowing the pleading that includes that claim to be filed after the court determines that the party seeking to file the pleading has established evidence that substantiates the claim. The court may allow the filing of a pleading that includes that claim following the filing of a verified petition therefor accompanied by the proposed pleading and supporting affidavits stating the facts upon which the liability is based. The court shall order service of the petition upon the party against whom the action is proposed to be filed and permit that party to submit opposing affidavits prior to making its determination. The filing of the petition, proposed pleading, and accompanying affidavits shall toll the running of any applicable statute of limitations until the final determination of the matter, which ruling, if favorable to the petitioning party, shall permit the proposed pleading to be filed.

(b) Nothing in this section shall affect the plaintiff's right to discover evidence on the issue of damages.

(c) Nothing in this section shall be construed to affect any action against a nonprofit corporation for any negligent action or omission of a volunteer director or officer occurring within the scope of the person's duties.

(d) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(e) (1) This section applies only to officers and directors of nonprofit corporations that are incorporated pursuant to Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of Division 2 of Title 1 of the Corporations Code that are organized to provide charitable, educational, scientific, social, or other forms of public service and that are exempt from federal income taxation under Section 501(c)(1), except any credit union, or Section 501(c)(4), 501(c)(5), 501(c)(7), or 501(c)(19) of the Internal Revenue Code.

(2) This section does not apply to any corporation that unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(f) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 3. Section 5047.5 of the Corporations Code, as added by

Senate Bill 1755 of the 1987–88 Regular Session, is amended to read:

5047.5. (a) The Legislature finds and declares that the services of directors and officers of nonprofit corporations who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these corporations to protect the personal assets of their volunteer decisionmakers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit corporation incorporated under Part 2 (commencing with Section 5110), Part 3 (commencing with Section 7110), or Part 4 (commencing with Section 9110) of this division on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the corporation; and (4) is in the exercise of his or her policymaking judgement.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit corporations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit corporation maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the corporation's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the corporation's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one

million dollars ($1,000,000).

This section applies only if a policy is in force both at the time of injury and at the time that the claim is made, so that a policy is applicable to the claim.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit corporation for any negligent act or omission of a director, officer, employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any corporation that unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(i) This section does not apply to any volunteer director or officer who receives compensation from the corporation in any other capacity, including, but not limited to, as an employee.

(j) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 4. Section 24001.5 of the Corporations Code, as added by Senate Bill 1755 of the 1987–88 Regular Session, is amended to read:

24001.5. (a) The Legislature finds and declares that the services of directors or officers of nonprofit medical associations, as defined in Section 21200, who serve without compensation are critical to the efficient conduct and management of the public service and charitable affairs of the people of California. The willingness of volunteers to offer their services has been deterred by a perception that their personal assets are at risk for these activities. The unavailability and unaffordability of appropriate liability insurance makes it difficult for these associations to protect the personal assets of their volunteer decision makers with adequate insurance. It is the public policy of this state to provide incentive and protection to the individuals who perform these important functions.

(b) Except as provided in this section, no cause of action for monetary damages shall arise against any person serving without compensation as a director or officer of a nonprofit medical association, as defined in Section 21200, on account of any negligent act or omission occurring (1) within the scope of that person's duties as a director acting as a board member, or within the scope of that person's duties as an officer acting in an official capacity; (2) in good faith; (3) in a manner that the person believes to be in the best interest of the association; and (4) is in the exercise of his or her policymaking judgment.

(c) This section shall not limit the liability of a director or officer for any of the following:

(1) Self-dealing transactions, as described in Sections 5233 and 9243.

(2) Conflicts of interest, as described in Section 7233.

(3) Actions described in Sections 5237, 7236, and 9245.

(4) In the case of a charitable trust, an action or proceeding against a trustee brought by a beneficiary of that trust.

(5) Any action or proceeding brought by the Attorney General.

(6) Intentional, wanton, or reckless acts, gross negligence, or an action based on fraud, oppression, or malice.

(7) Any action brought under Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(d) This section only applies to nonprofit organizations organized to provide charitable, educational, scientific, social, or other forms of public service that are exempt from federal income taxation under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code.

(e) This section applies only if the nonprofit association maintains a general liability insurance policy with an amount of coverage of at least the following amounts:

(1) If the association's annual budget is less than fifty thousand dollars ($50,000), the minimum required amount is five hundred thousand dollars ($500,000).

(2) If the association's annual budget equals or exceeds fifty thousand dollars ($50,000), the minimum required amount is one million dollars ($1,000,000).

This section applies only if a policy is in force both at the time of injury and at the time that the claim is made, so that a policy is applicable to the claim.

(f) For the purposes of this section, the payment of actual expenses incurred in attending meetings or otherwise in the execution of the duties of a director or officer shall not constitute compensation.

(g) Nothing in this section shall be construed to limit the liability of a nonprofit association for any negligent act or omission of a director, officer employee, agent, or servant occurring within the scope of his or her duties.

(h) This section does not apply to any association that unlawfully restricts membership, services, or benefits conferred on the basis of race, religious creed, color, national origin, ancestry, sex, marital status, disability, political affiliation, or age.

(i) This section does not apply to any volunteer director or officer who receives compensation from the association in any other capacity, including, but not limited to, as an employee.

(j) This section shall remain in effect only until January 1, 1992, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends that date.

SEC. 5. Sections 2, 3, and 4 of this act shall become operative only if this bill and SB 1755 are both enacted, and this bill is enacted last.

SEC. 6. The amendment of Section 425.13 of the Code of Civil Procedure made at the 1988 portion of the 1987–88 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.